

FOI# 16357

September 25, 2015

Mildred Olivencia
FOI Administrator
The Port Authority of New York and New Jersey
Corporate Offices
4 World Trade Center
150 Greenwich Street
New York, NY 10007
Via Fax: 212-435-7555

Re: Freedom of Information Request

Dear Ms. Olivencia:

Pursuant to the New York State Freedom of Information Law, Article 6 of the Public Officer Law, and the Port Authority of New York and New Jersey policy on Freedom of Information found on the Port Authority's website (http://www.panynj.gov/AboutthePortAuthority/ContactInformation/foi_policy.html), I am requesting a copy of all documents on file, including correspondence between the Port Authority and United Airlines or the South Jersey Transportation Authority regarding United Airline's 2014 one-year agreement with the South Jersey Transportation Authority to operate flights out of Atlantic City International Airport. This should include any and all documents related to a package of financial incentives including, but not limited to subsidies or breaks related to landing, fuel, service fees, and marketing support.

Please contact me at (212)-388-3814 or via email at mkyi@seiu32bj.org if you have any questions concerning this request. *Please email me copies of the records, if they are available electronically.* I ask that you please contact me if service and duplication charges for this request exceed \$200.00 overall.

If for any reason any portion of my request is denied, please inform me of the reasons for the denial in writing and provide the name and address of the person or body to whom an appeal should be directed.

Thank you for your attention to this matter.

Sincerely,



May Kyi
Research Department
SEIU 32BJ
25 West 18th Street
New York, NY 10011
212-388-3814
mkyi@seiu32bj.org



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606-324-3445

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www.seiu32bj.org

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

March 28, 2016

Ms. May Kyi
SEIU 32BJ
25 West 18th Street
New York, NY 10011

Re: Freedom of Information Reference No. 16357

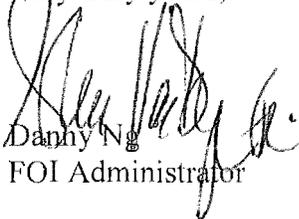
Dear Ms. Kyi:

This is in response to your September 25, 2015 request, which has been processed under the Port Authority's Freedom of Information Code, copy enclosed, for copies of all documents on file, including correspondence between the Port Authority and United Airlines or the South Jersey Transportation Authority regarding United Airline's 2014 one-year agreement with the South Jersey Transportation Authority to operate flights out of Atlantic City International Airport

Material responsive to your request can be found on the Port Authority's website at <http://corpinfo.panynj.gov/documents/16357-LPA/>. Paper copies of the available records are available upon request.

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 3642 F: 212 435 7555*

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT (this "Agreement") is made as of this 1st day of July, 2013 (the "Effective Date"), by and between SOUTH JERSEY TRANSPORTATION AUTHORITY, a public body corporate and politic in the New Jersey Department of Transportation and constitutes an instrumentality of the State of New Jersey, and its successors and assigns, having offices at the Administration Building, Farley Service Plaza, Atlantic City Expressway, Milepost 21.3 in Elwood, New Jersey 08217 ("SJTA"), and THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic, created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having its principal office at 225 Park Avenue South, New York, New York 10003 (the "Port Authority"). The Port Authority and SJTA are hereinafter collectively referred to as the "Parties" and individually referred to as a "Party."

WITNESSETH:

WHEREAS, SJTA was created by enactment of PL. 1991, c.252, of the laws of the State of New Jersey, and is responsible for the management and operation of the Airport (as herein defined) pursuant to N.J.S.A. 27:25A-24;

WHEREAS, SJTA owns approximately eighty-four (84) acres that encompasses the Airport (as herein defined) terminal and the supporting facilities located at the Airport;

WHEREAS, SJTA is responsible for the operation, maintenance, improvement and promotion of the Airport;

WHEREAS, SJTA represents that it has the right to lease and license the use of the land (and all easements and other rights pertaining thereto), improvements, property and facilities on the Airport and has full power and authority to enter into this Agreement in respect thereof;

WHEREAS, pursuant to a lease between the United States of America, acting by and through the Department of Transportation, Federal Aviation Administration, and SJTA, dated April 1998 (the "FAA Lease"), SJTA is the lessee of approximately 2100 acres situated at the Airport;

WHEREAS, SJTA will continue to be the Airport sponsor and holder of the FAA Operating Certificate (as herein defined) unless modified by future agreement as permitted herein;

WHEREAS, funds advanced from the New Jersey Transportation Trust Fund Authority were used to acquire the Civil Terminal Area (the "TTFA Funds") and various other capital improvements at the Airport have been undertaken by SJTA and financed

with bonds (the "Airport Bonds") issued by it and currently outstanding pursuant to one or more bond resolutions previously adopted by the Authority (collectively, the "SJTA Bond Resolution");

WHEREAS, N.J.S.A. 32:35.1 provides that the Port Authority may effectuate, establish, acquire, construct, rehabilitate, improve, maintain and operate air terminals;

WHEREAS, in 1967, legislation was passed by the State of New York authorizing the Port Authority to establish one additional air terminal in the State of New York and one additional air terminal in the State of New Jersey outside the Port District, with the site to be approved by the Governor of the State in which such terminal is to be located (L.1967, c.717, Sections 103 and 104, codified at N.Y. Unconsol. Law Ch. § 6631, note), and concurrent legislation was passed on May 3, 2007 by the State of New Jersey (P.L. 2007, c. 75), also providing that all provisions of N.Y. Unconsol. Law Ch. §§ 6631 to 6647 of the State of New York and corresponding statutes in the State of New Jersey governing the Port Authority shall be applicable to the "effectuation, establishment, acquisition, construction, rehabilitation, improvement, maintenance and operation of the said air terminal as though it had been expressly mentioned and authorized therein";

WHEREAS, on March 18, 2013, Governor Chris Christie of the State of New Jersey approved the Airport pursuant to authority granted to him under N.J.S.A. 32:1-35.27f and N.Y. Unconsol. Law Ch. §§ 167-A, 103, 104 (Consol.);

WHEREAS, SJTA desires that the Port Authority perform certain management and other services at the Airport and the Port Authority desires to perform such management and other services the Airport;

WHEREAS, pursuant to the Port Authority Board Resolution authorizing the Port Authority to provide management services to SJTA, the provision of such services is subject to certification of the Airport as an additional facility of the Port Authority pursuant to Port Authority bond covenants; and

WHEREAS, pursuant to paragraph (n) of Article X of the Port Authority By-Laws, the Executive Director of the Port Authority may, in the best interests of the Port Authority, enter into or authorize execution of agreements with federal, state, or other governmental entities for the performance of services by Port Authority employees.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, SJTA and the Port Authority agree as follows:

ARTICLE I DEFINITIONS

Section 1. Definitions.

(a) "Airport" shall mean Atlantic City International Airport located in Egg Harbor Township, New Jersey, as shown on the Airport Layout Plan approved by the FAA as of the date of this Agreement and as the same may be amended from time to time by SJTA.

(b) "Airport Bonds" shall have the meaning set forth in the seventh Whereas Clause hereto.

(c) "AvPorts Contract" shall mean that certain Airport Management Agreement, dated July 1, 2008, between Macquarie Aviation North America 2 Inc. d/b/a AvPorts (predecessor in interest to AFCO AvPorts Management LLC ("AvPorts")) and SJTA, and any extensions or modifications thereto, which is attached hereto as "Exhibit A."

(d) "Business Expenses" shall have such meaning as set forth in Section 2(c) of Article III hereof.

(e) "Claim" shall have such meaning as set forth in Section 6 of Article III hereof, and shall include both claims between the Parties and claims asserted against a Party by third parties.

(f) "Confidential Information" shall have such meaning as set forth in subsection (m) of Article V hereof.

(g) "Environmental Law" shall mean any past, present or future federal, state or local environmental or health and safety law, statute, ordinance, regulation or rule as well as common law including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.*, the Superfund Amendments and Reauthorization Act of 1986, U.S.C. § 2701 *et seq.*, the Solid Waste Disposal Act, 42 U.S.C. § 6901 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, the Emergency Planning and Community Right to Know Act, 42 U.S.C. § 11001 *et seq.*, the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*, the Rivers and Harbors Act, 33 U.S.C. § 401 *et seq.*, the Endangered Species Act, 16 U.S.C. §§ 1531 *et seq.*, the Occupational Safety and Health Act, 29 U.S.C. § 651 *et seq.*, the Safe Drinking Water Act, 42 U.S.C. § 300(f) *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 *et seq.*, the Federal Insecticide, Fungicide & Rodenticide Act, 7 U.S.C. § 136 *et seq.*, the Atomic Energy Act of 1954, 42 U.S.C. § 2011 *et seq.*, the Clean Air Act, 42 U.S.C. § 7401 *et seq.*, the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 *et seq.*, and any other law, rule, guidance or common law that relates to: (a) the existence and/or remedy of Hazardous Substances; (b) the protection of persons,

property, animals or the environment; (c) the use, generation, storage, removal, recovery, treatment, transport, disposal and control of Hazardous Substances; (d) the prevention of, control of, or response to the exposure of employees or other person to Hazardous Substances; and (e) the prevention of, control of, or response to the emission or Release of Hazardous Substance in the workplace or environment.

(h) "Effective Date" shall have such meaning as set forth in the preamble hereto.

(i) "Expiration Date" shall have the meaning set forth in Section 1 of Article II hereof.

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

(k) "FAA Lease" shall have the meaning set forth in the fifth Whereas Clause hereto.

(l) "FAA Cooperative Agreement" shall mean that certain cooperative agreement between the United States of America, acting by and through the Department of Transportation and FAA, and SJTA dated April 15, 1998.

(m) "FAA Operating Certificate" shall mean that certain operating certificate issued by the FAA authorizing said holder to operate as a certificated airport in accordance with and subject to Title 49 USC, Subtitle VII and the rules, regulations and standards prescribed thereunder, including, but not limited to, CFR Part 139 and any terms and conditions under said operating certificate and the Airport Certification Manual.

(n) "Fiscal Year" shall mean any twelve-month period commencing on the first day of January and ending on the last day of December.

(o) "General Management Services Period" shall have such meaning as set forth in Section 13 of Article III hereof.

(p) "Governmental Authority" shall mean any and all federal, state and local government agencies, departments, commissions, boards or bodies which have jurisdiction over the implementation, interpretation or enforcement of Environmental Law, except that it shall not be construed to include the Port Authority.

(q) "Hazardous Substance" shall mean and include, without limitation, any pollutant, contaminant, toxic or hazardous waste, dangerous substance, potentially dangerous substance, noxious substance, toxic substance, flammable, explosive or radioactive material, urea formaldehyde foam insulation, asbestos, polychlorinated biphenyls ("PCBs"), chemicals known to cause cancer, or reproductive toxicity, petroleum and petroleum products and other substances (whether solid, liquid, or gas) which have been or in the future shall be defined, listed, declared, or otherwise classified

as pollutants, hazardous, toxic, or words of similar meaning or regulatory effect under any present or future Environmental Law or that may have a negative impact on human health or the environment, or the removal, containment or restriction of which have been or in the future shall be required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which have or in the future shall be restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(r) "Indemnified Party" have such meaning as set forth in Section 6(c) of Article III hereof.

(s) "Indemnifying Party" have such meaning as set forth in Section 6(c) of Article III hereof.

(t) "Losses" shall have such meaning as set forth in Section 5(c) of Article III hereof.

(u) "Pre-Certification Period" shall have such meaning as set forth in Section 1 of Article IV hereof.

(v) "Port Authority" shall have the meaning set forth in the preamble hereto.

(w) "Release" shall mean and include, but not be limited to, any release, deposit, discharge, emission, leaking, leaching, spillage, seeping, migrating, ejecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Substances.

(x) "SJTA" shall have the meaning set forth in the preamble hereto.

(y) "SJTA Fee Interest" shall mean the approximately 84 acres owned by SJTA as more particularly described in that certain Deed from City of Atlantic City, as grantor, to SJTA, as grantee, dated September 24, 1992, and recorded in the in the Clerk's Office of the County of Atlantic, State of New Jersey in Deed Book 5414, Page 60 .

(z) "SJTA Bond Resolution" shall have the meaning set forth in the seventh Whereas Clause hereto.

(aa) "Services" shall have the meaning set forth in Section 1 of Article III hereof.

(bb) "Site" shall mean the area encompassed by the United States Environmental Protection Agency's ("EPA") National Priorities List ("NPL") identification number for ACY, EPA ID#: NJ9690510020, which roughly corresponds to the 5,059 acres owned by the FAA, plus the land currently owned by SJTA.

(cc) "Term" shall have the meaning set forth in Section 1 of Article II hereof.

(dd) "TTFA Funds" shall have the meaning set forth in the seventh Whereas Clause hereto.

ARTICLE II TERM AND OPTION TO PURCHASE

Section 1. Term. The term (the "Term") of this Agreement shall commence as of the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifteenth (15th) anniversary of the Effective Date ("Expiration Date"), unless sooner terminated in accordance with the terms and conditions of this Agreement.

Section 2. Renegotiation. Following both the fifth (5th) anniversary of the Effective Date and the tenth (10th) anniversary of the Effective Date, the Parties shall commence negotiations to amend or restate the terms and conditions of this Agreement, including, but not limited to, the management fee payable to the Port Authority. Notwithstanding the foregoing, nothing in this Agreement shall prohibit the Parties from renegotiating this Agreement, other than the terms of the management fee which shall be governed by this Section and Section 2 of Article III hereof, at any other time during the Term as the need may arise. If the parties are unable to reach new terms and conditions during any renegotiation, this Agreement will remain in effect under the then existing terms and conditions, unless terminated pursuant to Section 8 of Article III hereunder.

Section 3. Option to Purchase. At any time during the Term, the Port Authority has the right to purchase SJTA's interest in the Airport, including but not limited to acquisition of SJTA's Fee Interest and the assignment of the FAA Lease and the FAA Cooperative Agreement, subject to the conditions herein. Such right is contingent upon and subject to: (a) compliance with (i) the provisions of the SJTA Act and any other State laws including, but not limited to, P.L. 2011, c.18 (N.J.S.A. 5:12-218 *et seq.*), and (ii) the applicable provisions of the SJTA Bond Resolution and loan agreement executed in connection with receipt of the TTFA Funds; (b) the Parties reaching agreement as to the terms and conditions of the acquisition; (c) the approval through appropriate resolution or other means of the Boards of Commissioners of the Port Authority and SJTA, subject to the expiration of the respective gubernatorial veto periods of each; and (d) any other approvals or consents required by law, including approval by the FAA. If the Port Authority elects to exercise this right to purchase the Airport, the Port Authority shall provide written notice of its election to SJTA, such notice to include the salient terms of an agreement to purchase the Airport. Within forty-five (45) days of SJTA's receipt of such notice, the Parties shall commence negotiations. The Parties agree to provide the FAA ninety (90) days notice of any agreement for the purchase or transfer of the Airport for its review of said agreement and the terms thereof. If the Parties are unable to reach an agreement, this Agreement shall remain in effect subject to the Parties' rights to terminate pursuant to Section 8 of this Article III.

ARTICLE III
PORT AUTHORITY MANAGEMENT SERVICES

Section 1. Port Authority Responsibilities.

(a) In accordance with this Article III and subject to the terms and conditions in this Article III, the Port Authority shall provide general management services (“Services”) to SJTA in connection with Airport operations for the use and benefit of the general public. The Services shall include conducting the daily operations of the Airport in conjunction with SJTA in a manner consistent with the SJTA enabling Act, N.J.S.A. 27:25A-1 *et seq.*, and its bylaws, as well as the FAA Operating Certificate. In performing its responsibilities under this Agreement, the Port Authority shall do so in a manner normally associated with sound, safe, innovative, prudent and efficient airport management and shall provide all services as are customary and normal in conformance with SJTA policies and procedures, and all other applicable laws, rules and regulations. The application in the performance of the Services by the Port Authority of the applicable general operating standards and practices that it applies to other aeronautical facilities operated by it, whether in or outside the Port District, shall be deemed to constitute compliance with its obligations hereunder, to the extent that such standards and practices are not inconsistent with any other airport operator obligations. As provided in Section 1(b)(ii) of this Article III, in performing such Services, the Port Authority shall utilize AvPorts, in accordance with the AvPorts Contract.

(b) In addition to the above, the Port Authority’s Services shall include, but not be limited to, the following:

(i) Business Management Services.

(1) Air Service Development. The Port Authority shall (A) use commercially reasonable efforts to establish relationships with carriers for service destinations that meet the Airport market needs; (B) create, develop, and assist in the implementation of marketing strategies and programs for the Airport; (C) provide advice and assistance to SJTA on aviation industry relations; and (D) conduct community and stakeholder outreach including, without limitation, holding discussions with business community members regarding their travel needs.

(2) Concessions. The Port Authority shall evaluate the leasing and management of concession operations (retail, food-and-beverage and specialty retail) at the Airport and shall provide recommendations for the following, including, without limitation, the development of an overall tenant-mix and merchandising plan for the Airport, identification of potential vendors, location of uses, and appropriate rental terms.

(3) Parking Operations. The Port Authority shall use its efforts in collaboration with SJTA to make the parking operations at the Airport more efficient. The Port Authority shall review the pricing, staffing and general management of the parking facilities at the Airport and shall provide recommendations regarding same.

(4) Capital Improvement Plan. The Port Authority shall provide capital improvement plan recommendations addressing future needs of the Airport.

(5) Operating Budget and Plan; Capital Plan. The Port Authority shall collaborate and work together with SJTA on the operating budget and operating plan for the Airport.

(6) Revenue Generating and Cost Savings Initiatives. The Port Authority shall collaborate with SJTA to create measures it can undertake to generate revenue and to reduce expenses at the Airport.

(7) Press and Media Releases. The Port Authority and SJTA shall collaborate on any press and media releases relating to the Airport prior to their distribution.

(ii) AvPorts Contract. The Parties acknowledge that as of the Effective Date, the AvPorts Contract has been extended for an additional one-year term to expire on June 30, 2014, subject to further extension or renegotiation. Insofar as the AvPorts Contract continues to be in effect, whether in its present form or further extended or renegotiated, the Port Authority shall administer the AvPorts Contract to fulfill its responsibilities as defined in this Section and to monitor performance by AvPorts; provided, however, that the Port Authority shall have no obligation to legally enforce the AvPorts Contract and such right, and any costs incurred in connection with such enforcement, shall be retained by SJTA; and provided, further, however, that the Port Authority is not assuming and will not assume any liabilities of SJTA under the AvPorts Contract or any obligation to make payments to AvPorts thereunder.

(1) SJTA shall provide or cause to be provided to the Port Authority copies of any and all plans, reports, rules and regulations or other information in connection with the Airport, except those plans and documents submitted pursuant to Section 3.4(a) of the AvPorts Contract, which the Port Authority will not be responsible for reviewing or monitoring compliance therewith. The Port Authority shall, in its discretion, provide its comments and recommendations to all plans, reports, rules and regulations and provided to it for review in connection with the Airport. The Port Authority shall provide or cause to be provided to SJTA any and all plans, reports, rules and regulations or other information that it receives in connection with its Services at the Airport.

(2) The Port Authority, on behalf of SJTA, will have the right to request AvPorts to prepare and provide to the Port Authority and to SJTA such reports and statistical data that SJTA has the right to request under Section 3.6(a) of the AvPorts Contract.

(3) SJTA shall advise AvPorts that under any provision of the AvPorts Contract requiring notice to the Airport Director or SJTA, it shall simultaneously notify the Port Authority General Manager of the Airport, or his or her designee.

(4) SJTA shall provide or caused to be provided to the Port Authority the CFR Part 139 inspection report prepared by AvPorts in accordance with Section 3.2(c) of the AvPorts Contract, and the Port Authority shall review and provide its recommendations relating thereto.

(5) The Port Authority shall assist and make recommendations to SJTA in connection with the selection of or changes to AvPorts staff under Section 3.10(c) of the AvPorts Contract.

(6) SJTA shall notify AvPorts that the Port Authority, as SJTA's administrator of the AvPorts Contract, shall have SJTA's rights of access and inspection as set forth in Section 19.1 of the AvPorts Contract.

(7) The Port Authority shall not administer or monitor AvPort's responsibilities under the following sections of the AvPorts Contract: (A) Section 3.12; (B) Section 3.2(i); (C) subsections (a) and (c) of Section 3.4; and (D) the portion of Section 3.3 relating to fueling operations and aircraft deicing operations. The administering and monitoring of such items shall remain the obligation of SJTA.

(8) SJTA shall require AvPorts to report to the Port Authority with respect to its obligations under the AvPorts Contract, except such items set forth in subsection (b)(ii)(7) of this Section and any items that relate to the obligations and responsibilities described in (e) and (f) of this Section. The Port Authority is not authorized to make changes to the AvPorts Contract or otherwise provide direction to AvPorts that would be contrary to the provisions of the AvPorts contract.

(c) The Port Authority shall use its skill and ability in performing the Services consistent with the manner in which it operates its other aeronautical facilities. Any review, recommendation or advice furnished by the Port Authority hereunder will not be deemed in any way to constitute a warranty or guaranty by the Port Authority to SJTA or any other party of the Services provided by the Port Authority.

(d) SJTA and the Port Authority shall provide to each other copies of all information and reports that it receives from any consultant it hires in connection with the Airport, except for those generated and developed by each for purposes of litigation.

(e) Notwithstanding anything to the contrary stated herein, nothing in this Agreement is intended, nor will be deemed, to delegate to the Port Authority any obligations or responsibilities which SJTA is directly obligated to perform (i) under the FAA Operating Certificate applicable to the operations of the Airport issued by the FAA; (ii) under the FAA Lease; (iii) under any approval, permit, certificate or other issuance by any federal, state, or local governmental authority, including, without limitation, the Transportation Security Administration, United States Department of Homeland Security, Army Corps of Engineers, and the New Jersey Department of Transportation; (iv) pursuant to the terms of the SJTA Bond Resolution and loan agreement executed in connection with receipt of the TTFA Funds; or (v) otherwise under applicable laws, rules,

or regulations. SJTA covenants and warrants to the Port Authority that it shall comply with all of its aforesaid obligations and responsibilities.

(f) Consistent with, and without limiting subsection (e) of this Section, SJTA shall retain all responsibilities of an airport sponsor, including, but not limited to, the following:

(i) Ensuring that airport operations remain in compliance with all federal obligations undertaken by SJTA, including, but not limited to, those related to SJTA's obligations as holder of the FAA Operating Certificate, and as Airport sponsor responsible for airport-related grant agreements and all applicable airport-related grant assurances.

(ii) Negotiating and entering into aeronautical and non-aeronautical leases and agreements associated with the Airport, provided, however, it shall collaborate with the Port Authority as set forth in Section 1 of this Article III.

(iii) Consistent with the FAA Lease and the FAA Cooperative Agreement, developing or improving the airfield in the manner it deems appropriate to fulfill its obligations as airport sponsor.

(iv) Funding and undertaking, or cause to be undertaken, capital improvements, repairs and maintenance on and at the Airport, including, but not limited to, excavation activities.

(v) Amending the Airport Layout Plan, as required.

(vi) Preparing and filing applications for grants and Passenger Facility Charges.

(vii) Managing, operating, and maintaining the Airport Fuel Farm.

(viii) Administering and monitoring Avports' responsibilities under the following Sections of the AvPorts Contract: (A) Section 3.12; (B) Section 3.2(i); (C) subsections (a) and (c) of Section 3.4; and (D) the portion of Section 3.3 relating to fueling operations and aircraft deicing operations.

(g) SJTA shall retain all responsibilities and obligations regarding security, emergency, and medical operations, services and conduct, including, but not limited to, the operations and conduct of the New Jersey State Police and the Aircraft Rescue and Fire Fighting unit. The Port Authority shall have no responsibilities or obligations in matters of security, emergency or medical operations, services and conduct.

(h) The Port Authority shall provide SJTA with a current list of employees whose primary responsibilities are for the Services provided under this Agreement. The list shall indicate the individual employee, salary and responsibility at the Airport, as well

as an approximation of the time spent on Airport matters should that employee regularly perform work on behalf of the Port Authority that is not Airport related. The Port Authority shall inform SJTA executive staff of all changes to its Airport employees and shall consult with SJTA executive staff on the placement/movement of employees and the creation and elimination of positions. Port Authority Airport employees will partner with a yet to be determined group of SJTA Airport employees who will be considered the working management group of the Airport. The Airport director (or deputy) shall be a part of this group.

Section 2. Management Fee and Reimbursement for Port Authority Expenses.

(a) Management Fee.

(i) For each Fiscal Year during the General Management Services Period (as hereinafter defined), SJTA shall pay to the Port Authority an annual management fee in the amount of Five Hundred Thousand Dollars and No Cents (\$500,000.00) payable in arrears in equal monthly installments of Forty-one Thousand Six Hundred Sixty-six Dollars and Sixty-seven Cents (\$41,666.67) beginning on the first day of the month following the month in which the Airport is certified as an additional facility of the Port Authority. The Port Authority shall submit monthly invoices to SJTA for its payment of same.

(ii) In the event the General Management Services Period shall commence in a month other than January, the annual management fee shall be the annual management fee prorated on an annual basis using the actual number of months remaining in said Fiscal Year. In the event the General Management Services Period shall expire in a month other than December, the annual management fee for said Fiscal Year shall be the annual management fee prorated on an annual basis using the actual number of months for said portion of the Fiscal Year.

(iii) If any installment of the annual management fee payable hereunder shall be for less than a full calendar month, then the fee for the portion of the month for which said payment is due shall be the monthly installment prorated on a daily basis using the actual number of days in that said month.

(iv) Upon any termination of this Agreement (even if stated to have the same effect as expiration), SJTA shall within sixty (60) days after the effective date of such termination, make a payment to the Port Authority of the applicable fee computed as follows: (1) if the Agreement is terminated effective on a date other than the last day of a month, the fee for the portion of that month in which the Agreement remains effective shall be the amount of the monthly installment of the fee prorated on a daily basis; (2) if the monthly installment due on the first day of that month has not been paid SJTA shall pay the prorated part of the amount of that installment; and (3) if the monthly installment has been paid, then the excess thereof shall be returned to SJTA.

(b) Additional Compensation.

(i) If the Airport's operating revenues exceed the Airport's operating costs in any Fiscal Year during the General Management Services Period, within sixty (60) days from the end of such Fiscal Year, the Parties shall commence negotiations to amend the terms and conditions of this Agreement. In such event, the new or amended agreement shall provide that the the Port Authority shall be entitled to receive additional compensation in such Fiscal Year in which operating revenues exceeded operating costs, which such compensation shall consider the total costs the Port Authority has incurred during that Fiscal Year in performing the obligations under this Agreement. In negotiating the amount of the additional compensation to the Port Authority, the Parties shall also consider the management fee paid to the Port Authority by SJTA in that Fiscal Year. Nothing herein shall cause SJTA to violate: (1) any covenants made by SJTA and set forth in the SJTA Bond Resolution; or (2) FAA Revenue Diversion principles applicable to SJTA.

(ii) In no event shall the annual management fee or any other compensation to be paid to the Port Authority be less than Five Hundred Thousand Dollars and No Cents (\$500,000.00).

(iii) If the Parties are unable to reach new terms and conditions during any renegotiation, this Agreement will remain in effect under the then-existing terms and conditions, unless terminated pursuant to Section 8 of this Article III.

(c) Port Authority Expenses. SJTA shall pay for all Port Authority employees' business-related travel and other ordinary and reasonable business expenses (collectively, "Business Expenses") in connection with this Agreement in accordance with the SJTA's policies and practices governing such expenses. The Port Authority shall provide an annual estimate of such Business Expenses to SJTA and shall obtain approval from SJTA prior to incurring such Business Expenses. The Port Authority employees shall: (i) submit to SJTA a written request for SJTA's direct payment of such Business Expenses, which SJTA shall promptly pay to such payee on behalf of the Port Authority; or (ii) seek reimbursement from SJTA for approved Business Expenses incurred. SJTA will be responsible for any appropriate tax reporting associated with such expenses and travel. For the avoidance of doubt, the Port Authority employees performing the Services will remain Port Authority employees and continue to receive salary and benefits directly from the Port Authority.

Section 3. Books, Records and Audits.

(a) The Port Authority shall maintain at its expense such books and records as are necessary to document its provision of the Services, and shall make such books and records available for inspection by SJTA, and its respective agents and representatives, at all reasonable times, upon reasonable advance notice. SJTA shall maintain such books and records as are necessary to document its operation of the Airport as the Airport owner and sponsor, and shall make such books and records available for inspection by

the Port Authority, and its respective agents and representatives, at all reasonable times, upon reasonable advance notice.

(b) The Parties agree to maintain such books and records in accordance with good record management practices and with at least the same degree of completeness, accuracy and care as they maintain for their own records. Such records shall be retained for a period of six (6) years, or such longer period as may be required by applicable state or federal law and regulations. However, if at the expiration of any such 6-year period, either Party has commenced proceedings or is contesting any matter relating to such records or any matter as to which such records may be relevant, the Parties shall preserve such records until one (1) year after the final adjudication, settlement or other disposition of any such contest. Such records shall be maintained at each Party's respective offices at the Airport or at another location in New York or New Jersey accessible to the other Party. The Parties shall cooperate with each other, without any charge by the other Party therefor, with respect to such records and the information available therefrom to the extent reasonably required to assist each other in complying with any reporting and related obligations to the FAA in relation to the Airport.

(c) Each Party, or its respective agents and representatives, may audit the books and records identified in paragraph (a) of this Section of the other Party, at reasonable times upon reasonable advance notice to other Party. The Parties agree to cooperate fully with such audits.

(d) The obligations of the Parties under this Section shall survive the expiration or earlier termination of this Agreement.

Section 4. Areas Available for Port Authority Use. SJTA shall provide to the Port Authority, without charge, exclusive furnished space for office purposes and non-exclusive use of lavatory, washroom facilities and other common areas for the employees of the Port Authority in connection with the performance of the Services. SJTA shall also provide, without charge, space to the Port Authority for storage of the Port Authority's equipment, materials and supplies used at the Airport. All space and property to be used or occupied by the Port Authority for office and storage use may be secured by the Port Authority, in its sole discretion, in order to satisfy its needs for confidentiality and protection of its property. SJTA shall maintain and repair all space provided to the Port Authority under this Section of this Agreement.

Section 5. Environmental Matters.

(a) Representations and Warranties. SJTA represents and warrants that:

(i) Except for such matters disclosed to the Port Authority pursuant to Sections 5(a)(ii) & (iii) of this Article III, to the best of its knowledge, the facilities at the Airport and the operations of SJTA in, on or at the Airport have been and are in compliance in all respects, including having all necessary permits, registrations and authorizations, with all applicable Environmental Laws.

(ii) SJTA, to the best of its knowledge, has heretofore truthfully and fully provided to the Port Authority, in writing, any and all information relating to conditions in, on, under or from the Airport that are known to SJTA and is contained in files and records of SJTA, including, but not limited to, any and all permits, any reports relating to Hazardous Substances in, on, under or from the Airport and/or the environmental condition of the Airport.

(iii) SJTA, to the best of its knowledge, has heretofore truthfully and fully provided to the Port Authority, in writing, any and all information relating to the existence of any and all oral or written notice or other communication from any Governmental Authority or any person or entity relating to Hazardous Substances or remediation thereof, of possible liability of any person or entity pursuant to any Environmental Law, other environmental conditions in connection with the Airport or any actual or potential or threatened administrative or judicial proceedings in connection with the foregoing.

(b) Environmental Management, Operations and Remediation.

(i) SJTA shall be solely responsible to operate the Airport in compliance in all respects, including having all necessary permits, registrations and authorizations, with all applicable Environmental Laws, and the Port Authority shall have no obligations or responsibilities in that regard.

(ii) SJTA shall be solely responsible to direct the workings of, manage, and conduct all environmental affairs of the Airport, and the Port Authority shall have no obligations or responsibilities in that regard.

(iii) SJTA shall be solely responsible at its sole cost and expense to conduct all abatement of any and all Hazardous Substances and remediation of environmental conditions, whether known or unknown, disclosed or undisclosed, related to past and ongoing operations of the Airport, that exist at, under, on, or emanating from the Site regardless of the source or cause of such conditions whatsoever, and the Port Authority shall have no obligations or responsibilities in that regard.

(iv) SJTA shall conduct all abatement of Hazardous Substances and remediation of environmental conditions at its sole cost and expense and in a safe and prudent manner consistent with all applicable Environmental Laws and accepted industry standard and practices, and the Port Authority shall have no obligations or responsibilities in that regard.

(v) SJTA shall use its best efforts to keep the Airport free and clear of all liens and other encumbrances imposed pursuant to any Environmental Law, whether due to any act or omission of SJTA or any other person or entity.

(vi) SJTA shall not allow any tenant, contractor or other user of the Airport to act, or omit to act, in a manner that materially increases the dangers to human health or the environment or poses an unreasonable risk of harm to any person or entity. In performing the Services under the Agreement, the Port Authority and its authorized

agents shall not act, or omit to act, in a manner that materially increases the dangers to human health or the environment or poses an unreasonable risk of harm to any person or entity.

(vii) None of the provisions of Section 5(b) of this Article III shall be construed to prohibit or limit the SJTA's legal and/or contractual rights to require third parties, including the United States and its agencies, including, but not limited to, the FAA and the Army Corps of Engineers, to commence or continue remediation of adverse environmental conditions at the cost and expense of such parties.

(c) Environmental Indemnity.

(i) Except with regard to contamination caused solely by the Port Authority or its authorized agents, SJTA shall indemnify, defend and hold the Port Authority, its Commissioners, directors, officers, employees, agents, successors and assigns harmless from and against all claims, losses, liabilities, costs and expenses (including any reasonable consultant and expert fees, outside legal fees, and except the costs to the Port Authority for its own "in house" legal services and all other Port Authority professional staff services related to the particular claim, loss, liability, etc.), damages (including damage to third parties because of death, bodily injury or property damage), fines and penalties (collectively, "Losses") of any kind whatsoever arising from or relating to:

(1) known and/or unknown past, present or future presence, Release or threatened Release of any Hazardous Substance in, at, on, under, above, from, migrating from or otherwise impacting the Site;

(2) any past, present, or future noncompliance or violations of any Environmental Laws in connection with the Site and the operations thereon;

(3) any legal, judicial or administrative process or proceeding in any way connected with environmental conditions at the Site;

(4) any breach by SJTA of any representation or warranty set forth in this Section;

(5) any breach by SJTA of its responsibilities set forth in this Section for environmental management, operations and remediation; and

(6) any personal injury, wrongful death, or property or other damage arising under any statutory or common law or tort law theory concerning Hazardous Substances in any way associated with the Site.

(ii) SJTA reserves all of its contractual and other rights to pursue claims against third parties for any contamination located on or emanating from the Site.

(iii) The Port Authority shall indemnify, defend and hold SJTA, its Commissioners, directors, managers, employees, successors and assigns harmless from

and against any claims, losses, expenses (except the costs to SJTA for its own "in house" legal services and all other SJTA professional staff services), damages, fines and penalties arising from or relating to contamination caused solely by the Port Authority or its authorized agents on the Airport.

(iv) The obligations and liabilities of each indemnifying party hereunder with respect to claims resulting from the assertion of liability by the other Party or third parties shall be subject to the terms and conditions set forth in Section 6(c).

(d) SJTA shall cooperate and assist the Port Authority in its efforts to enter into an agreement with the United States of America or any state, or any political subdivisions thereof, concerning limitations of liability or any other matters arising out of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or any other federal or state laws, regulations, guidance and guidelines.

Section 6. Indemnification. Notwithstanding the terms of Section 5 of this Article III above:

(a) SJTA, at its sole cost and expense, shall indemnify and hold harmless the Port Authority and its Commissioners, directors, officers, employees, agents and representatives from and against any and all Losses arising out of, related to, or based upon:

(i) any act or omission of SJTA, its Commissioners, directors, officers, employees, agents, and representatives in connection with the Airport;

(ii) Airport operational noise or emissions and/or noise or emissions from aircraft flights from, to or at the Airport as now constituted or as the same may exist during this Agreement and any action taken in compliance with any court order or the laws of the federal, state or local government, irrespective of the legal theory upon which such suit, action or proceeding is predicated;

(iii) any past or future bond issuance of SJTA, including, but not limited to: (1) any claim or demand by bondholders of SJTA bonds or by any trustee of a SJTA bond issuance (including The Bank of New York Mellon); or (2) any act or omission of SJTA in connection with SJTA's covenants or representations to its bondholders or in connection with SJTA's bond resolutions;

(iv) any swap agreement entered into by SJTA with any counterparty (including such agreements with Bank of America, N.A. and Wachovia Bank, N.A. now known as Wells Fargo Bank, N.A.); or

(v) failure of SJTA, or anyone acting by, through or under SJTA, to perform any of its obligations under this Agreement, or under applicable law, rule or regulation, or a breach by SJTA of the terms of this Agreement,

except those Losses arising out of the gross negligence or willful misconduct of the Port Authority. For purposes of the above-stated exception, SJTA's indemnification obligation shall include claims, suits, etc., arising out of requests, directions and/or instructions provided to the Port Authority to perform as its agent for SJTA and other matters where SJTA provided its express consent or approval from an authorized SJTA employee. A list of those SJTA employees authorized to provide such express consent or approval shall be provided to the Port Authority by SJTA.

(b) The Port Authority, at its sole cost and expense, shall indemnify and hold harmless SJTA and its Commissioners, directors, officers, employees, agents and representatives from and against any and all Losses (including any reasonable consultant and expert fees and outside legal fees, and except the costs to SJTA for its own "in house" legal services and all other SJTA professional staff services) arising out of the failure of the Port Authority, its Commissioners, directors, officers, employees, agents, and representatives to perform any of its obligations under this Agreement or a breach by the Port Authority of the terms of this Agreement. The foregoing indemnification of the Port Authority shall not apply to any Losses to the extent arising out of (i) the gross negligence or willful misconduct of SJTA, or (ii) any act or omission of the Port Authority that arises out of, relates to or is requested or directed by SJTA or which was expressly consented to or approved by SJTA.

(c) The obligations and liabilities of each indemnifying party hereunder with respect to claims resulting from the assertion of liability by the other party or third parties shall be subject to the following terms and conditions:

(i) Any Party (the "Indemnified Party") making a claim for indemnification (a "Claim") against the other Party (the "Indemnifying Party") under this Section, shall promptly notify the Indemnifying Party thereof in writing with reasonable details of a Claim promptly after the Indemnified Party discovers the liability, obligation or facts giving rise to such Claim; provided, however, that the failure of the Indemnified Party to provide prompt notice of a Claim as contemplated by this Section shall not affect the right of the Indemnified Party to be indemnified pursuant to this Section for such Claim except to the extent such failure prejudices the ability of the Indemnifying Party to defend such Claim.

(ii) Any Indemnifying Party shall have the right to defend the Indemnified Party against any third party Claim with counsel of its choice reasonably satisfactory to the Indemnified Party so long as the Indemnifying Party conducts the defense of the Claim actively and diligently and in good faith.

(iii) So long as the Indemnifying Party is conducting the defense of a third party Claim in accordance with this Section: (1) the Indemnified Party may retain separate co-counsel at its sole cost and expense and participate in the defense of the Claim; and (2) the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to the Claim without the prior written consent of the Indemnified Party (not to be withheld unreasonably) unless such judgment or settlement contains an unconditional release of the Indemnified Party.

(iv) In the event any of the conditions in subsection (ii) of this Section 6(c) of this Article III is or becomes unsatisfied, however: (1) the Indemnified Party may defend against, and consent to the entry of any judgment or enter into any settlement with respect to, a third party Claim in any manner it reasonably may deem appropriate (the Indemnified Party need not obtain any consent from any Indemnifying Party in connection therewith, but, acting reasonably, will keep informed and consult with the Indemnifying Party); and (2) the Indemnifying Party will remain responsible for any Losses the Indemnified Party may suffer to the extent provided in this Section.

(v) Notwithstanding anything to the contrary contained herein, SJTA 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, 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.

(d) SJTA shall amend the AvPorts Contract to require AvPorts to indemnify and defend the Port Authority, and its Commissioners, officers, agents or employees, for all Losses for which it indemnifies SJTA and its Commissioners, officers, agents or employees under such agreement. AvPorts 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, 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.

(e) With the exception of Section 6(c) of this Article III, the indemnity obligations of the Parties as set forth in this Section shall not apply to any environmental matters. Any indemnity obligations relating to environmental matters shall be as set forth in Section 5 of this Article III.

Section 7. Insurance.

(a) SJTA shall include, and shall cause AvPorts to include, the Port Authority as an additional insured on all of its insurance policies relating to the Airport. A schedule of SJTA's insurance policies for the Airport is attached hereto as "Exhibit B" and made a part hereof. Each policy shall contain an 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, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.

(b) In all circumstances relating to improvements or operations at the Airport where a third party (including, without limitation, lessees, sublessees, permittees and licensees) is obligated to name SJTA as additional insured and/or loss payee under any insurance policy, SJTA shall, for all such policies: (i) obligate such third parties to likewise name the Port Authority as an additional insured and/or loss payee; (ii) take all

reasonable measures to assure that the Port Authority is named accordingly; (iii) provide the Port Authority upon demand with access to all Certificates of Insurance evidencing such insurance (including the Port Authority's coverage thereunder); (iv) when it submits any notice to an insurer regarding an occurrence, loss, or claim under such policy, specify, to the extent necessary under such policy, that such notice is being made on behalf of the Port Authority as well as SJTA. Each policy shall contain an 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, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.

Section 8. Termination. Following the fifth anniversary of the Effective Date, each Party shall have the right to terminate this Agreement at any time with or without cause upon no less than ninety (90) days' advance written notice to the other Party. If this Agreement is terminated, the Parties will cooperate in good faith in all reasonable respects in order to effect an efficient transition and to minimize the disruption to the business of all Parties.

Section 9. Cooperation between the Parties.

(a) The Parties will use reasonable and good faith efforts to cooperate with each other on all matters relating to the provision and receipt of the Services hereunder. Each Party shall make available to the other Party, consistent with their respective confidentiality and privacy policies, and applicable law, rule or regulation, any information required or reasonably requested by the other Party regarding the performance of any Services and the obligations of SJTA hereunder and shall be responsible for timely providing that information and for the accuracy and completeness of that information. The Parties will cooperate with each other in making such information available as needed in the event of any and all internal or external audits, legal actions or dispute resolution.

(b) SJTA and Port Authority shall keep each other apprised, on a reasonably prompt basis, of all material developments with respect to the Airport.

Section 10. Dispute Resolution. In the event of any dispute between SJTA and the Port Authority with respect to the interpretation or performance of this Agreement, SJTA and the Port Authority agree to meet promptly in a good faith effort to resolve such dispute. If such dispute cannot be resolved within forty-five (45) days following initiation of discussions between staff of SJTA and the Port Authority, the Parties agree to elevate such dispute to their respective senior officials, namely: the Executive Director of SJTA and the Deputy Executive Director of the Port Authority. If such dispute cannot be resolved within thirty (30) days following initiation of discussions between such senior officials, the Parties shall thereupon be free to pursue any available legal or equitable remedies.

Section 11. Failure to Perform; Force Majeure.

(a) The Port Authority shall have no liability for failure to perform its obligations to the extent that it is unable to perform by reason of: (i) the failure of SJTA to provide any approval required hereunder and requested by the Port Authority; (ii) the failure of SJTA to provide any approval required under applicable laws, rules and regulations or to otherwise comply with any applicable law, rule or regulation; (iii) the failure or refusal of SJTA to approve budgetary appropriations (or obtain funding from other sources); (iv) *force majeure considerations in accordance with subsection (c) of this Section*; or (v) SJTA is or becomes a party to an agreement with a third party which conflicts with this Agreement, whether by delegating authority or rights to such third party which impairs the Port Authority's ability to perform in any way, or otherwise.

(b) The Port Authority shall have no liability for any Claims or Losses arising from any and all matters involving security, emergency or medical services, including, but not limited to, the operations and conduct of the New Jersey State Police and the Aircraft Rescue and Fire Fighting unit.

(c) Neither SJTA nor the Port Authority will be liable to each other for any failure, delay or interruption in performing its respective obligations hereunder due to causes or conditions beyond its control, including, without limitation thereto, strikes, boycotts, picketing, slow-downs, work stoppages or labor troubles of any other type (whether affecting SJTA, the Port Authority or their respective contractors or subcontractors), embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior or applicable Governmental Authority, weather conditions, tides, riots, rebellion, sabotage or any other circumstances for which it is not responsible and which are not within its control. Further, neither Party shall be liable unless the failure, delay or interruption shall result from failure on the part of such Party to use reasonable care to prevent or reasonable efforts to cure such failure, delay or interruption.

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

Section 12. Notices.

(a) Any notice or other communication required or permitted hereunder shall be in writing and shall be sent by certified or registered mail (return receipt requested), with postage or other fees prepaid, personally delivered, or sent by Federal Express or any other comparable overnight courier service, with postage prepaid at the addresses set forth below (or at such other address as the respective party shall designate in writing):

If to the Port Authority:

The Port Authority of New York and New Jersey
225 Park Avenue South, 9th Floor
New York, New York 10003
Attn: Director, Aviation

with a copy to:

The Port Authority of New York and New Jersey
225 Park Avenue South, 15th Floor
New York, New York 10003
Attn: General Counsel

If to SJTA:

South Jersey Transportation Authority
P.O. Box 351
Hammonton, New Jersey 08037
Attn: Executive Director

with a copy to:

Gilmore & Monahan, P.A.
10 Allen Street
P.O. Box 1540
Toms River, New Jersey 08754
Attn: Lauren R. Staiger, Esq.

Any notice shall be deemed effectively given: (i) on the first (1st) business day following the date of delivery to the courier service, if sent by Federal Express, or any other comparable overnight courier service; (ii) on the date of delivery, if personally delivered; or (iii) on the third (3rd) business day after it is mailed by registered or certified mail.

Section 13. General Management Services Period. The provisions of this Article III shall apply during the period commencing on the date following the date the Airport is certified as an additional facility pursuant to the Port Authority bond covenants and ending on the Expiration Date ("General Management Services Period"). The Port

Authority shall provide to SJTA written notice of the date the Airport is certified as an additional facility of the Port Authority.

ARTICLE IV PRE-CERTIFICATION PERIOD

Section 1. Pre-Certification Period and Services. During the period from July 1, 2013 through the day the Airport is certified as an additional facility of the Port Authority pursuant to the Port Authority bond covenants ("Pre-Certification Period"), in anticipation of Port Authority facility certification, the Port Authority will perform the Services set forth in Article III hereof at the direction, and under the supervision, of SJTA.

Section 2. Salary, Benefits, and Attendance. During the Pre-Certification Period, the Port Authority employees performing the Services will remain Port Authority employees and continue to receive salary and benefits directly from the Port Authority. The Port Authority employees' work, performance, and attendance are subject to supervision by SJTA. The Port Authority employees may be entitled to normal performance and compensation reviews in accordance with the Port Authority's practices; the Port Authority may consult with SJTA regarding evaluation of the employees' performances during the Pre-Certification Period. The Port Authority employees are entitled to the standard excused absences, personal leave, vacation, and sick leave allowances that the Port Authority makes available to its employees at the same level of employment; however, time off for holidays and regular days off will conform to that provided to SJTA employees. The Port Authority employees may take one or more vacation periods during this period and shall coordinate the timing and duration of these periods with SJTA.

Section 3. Monthly Fee. During the Pre-Certification Period, SJTA shall pay to the Port Authority a monthly fee in the amount of Forty-one Thousand Six Hundred Sixty-six Dollars and Sixty-seven Cents (\$41,666.67) beginning on August 1, 2013. The Port Authority shall submit monthly invoices to SJTA for its payment of same.

Section 4. Business Expenses. SJTA shall pay for all the Port Authority employees' Business Expenses in connection with this Agreement in accordance with Section 2(c) of Article III of this Agreement.

Section 5. Indemnification. The Port Authority and its Commissioners, directors, officers, employees, agents and representatives shall be entitled to indemnification by SJTA under this Agreement during the Pre-Certification Period as and to the extent set forth in Sections 5(c) and 6 of Article III.

Section 6. Ethics. SJTA agrees that the Port Authority employees will not be required to act in any way contrary to applicable provisions of the Port Authority's Code of Ethics and Financial Disclosure (a copy of which will be provided to SJTA).

Section 7. Progress Reporting. The Port Authority employees will be expected to keep Port Authority staff advised of their activities and their progress during the Pre-certification Period, no less often than every thirty (30) days.

Section 8. Post Certification. It is hereby understood by the Parties that Article IV shall govern during the Pre-Certification Period.

ARTICLE V MISCELLANEOUS

Section 1. Miscellaneous.

(a) Entire Agreement. This Agreement and all Schedules and Exhibits attached hereto constitute the entire agreement between the parties hereto with respect to the subject matter hereof and shall supersede all previous oral or written negotiations, commitments or writings with respect to the subject matter hereof.

(b) Waiver, Modification, Discharge, etc. This Agreement and its Schedules and Exhibits may not be released, discharged, abandoned, changed or modified in any manner, except by an instrument in writing signed on behalf of each of the Parties hereto by their duly authorized representatives. The failure of any Party hereto to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of any such provision, nor in any way affect the validity of this Agreement or any part thereof or the right of any party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach.

(c) Severability. If any term or provision of this Agreement shall be determined invalid or unenforceable to any extent or in any application, then the remainder of this Agreement shall not be affected thereby, and such term or provision shall be deemed modified to the minimum extent necessary to make it consistent with applicable law and, except to such extent or in such application, shall not be affected thereby, and each and every term and provision of this Agreement as so modified if necessary, shall be enforced to the fullest extent and in the broadest application permitted by law.

(d) Binding Effect; Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and to their respective successors and permitted assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned by either Party without the prior written consent of the other Party.

(e) Counterparts; Facsimile. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. This Agreement, to the extent delivered by

means of a facsimile machine or electronic mail, will be treated in all manner and respects as an original instrument and will be considered to have the same binding legal effect as if it were an original signed version thereof delivered in person.

(f) Headings. The headings contained in this Agreement have been inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

(g) Governing Law. This Agreement and any claim, controversy or dispute arising under or related to this Agreement shall be governed by, and be construed in accordance with, the laws of the State of New Jersey applicable to contracts made, and to be performed solely within, such state, without regard to choice of law principles.

(h) Joint Construction. The Parties have participated jointly in the negotiation and drafting of this Agreement. Consequently, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement. This subsection shall survive the expiration or earlier termination of this Agreement.

(i) No Personal Liability. No Commissioner, member, director, officer, agent or employee of the Port Authority, shall be charged personally or held contractually liable by or to SJTA under any term or provision of this Agreement, or of any other agreement, document or instrument executed in connection therewith, or of any supplement, modification or amendment to this Agreement, or to such other agreement, document or instrument, or because of any breach or alleged breach thereof, or because of its or their execution or attempted execution. Similarly, no Commissioner, member, director, officer, agent or employee of the SJTA, shall be charged personally or held contractually liable by or to the Port Authority under any term or provision of this Agreement, or of any other agreement, document or instrument executed in connection therewith, or of any supplement, modification or amendment to this Agreement, or to such other agreement, document or instrument, or because of any breach or alleged breach thereof, or because of its or their execution or attempted execution.

(j) Subordination. Nothing in this Agreement shall supersede the provisions of any grant assurance, grant agreement or any other federal agreement applicable to the operation of the Airport and in the event that there is a conflict between any provision of this Agreement and a grant assurance, grant agreement, or other federal agreement, the grant assurance, grant agreement, or other federal agreement shall control.

(k) Port Authority Immunity. SJTA acknowledges that the Port Authority is a bi-State agency of the States of New Jersey and New York and is subject to certain statutory requirements and limitations, certain jurisdiction requirements and limitations, and also enjoys the benefit of certain rights, immunities and statutory authority as a bi-State agency. Notwithstanding anything to the contrary stated or implied in this Agreement, the Parties do not intend that any term, condition or provision of this

Agreement shall be interpreted, construed, applied or enforced so as to deprive the Port Authority of the aforementioned rights and immunities or so as to be inconsistent or in non-conformance with such statutory provisions or any past or future decisional law which is based on such statutory provisions. This subsection shall supersede and control in the event of any inconsistency or ambiguity between this provision and any other term, condition or provision of this Agreement.

(l) No Third Party Beneficiary. This Agreement does not and shall not be construed to confer any rights upon any person except the Parties hereto, whether upon a theory of third party beneficiary or otherwise.

(m) Confidential Information.

(i) Subject to the Port Authority's Freedom of Information Policy, the New Jersey Open Public Records Act, and applicable federal laws and regulations regarding freedom of information, the Parties will maintain in confidence all Confidential Information provided to each other in connection with this Agreement and will use the Confidential Information solely for the purpose of carrying out their respective obligations under this Agreement. The term "Confidential Information" includes, but is not limited to, proprietary information relating to the Airport's financial and operating data, marketing information, project plans, business requirements and any other confidential information that either Party discloses orally or in writing to the other Party (including without limitation, computer programs, code, macros or instructions) in connection with the performance of this Agreement, regardless of the manner or medium in which such information is furnished.

(ii) Notwithstanding anything in this Section to the contrary, the term "Confidential Information" does not include any information which: (1) at the time of disclosure is generally available to and known by the public (other than as a result of an unpermitted disclosure made directly or indirectly by a Party); or (2) was available to a Party on a non-confidential basis from another source (provided that such source is not or was not bound by a confidentiality agreement with a Party or had any other duty of confidentiality to a Party).

(iii) Subject to the Port Authority's Freedom of Information Policy, New Jersey Open Public Records Act, and applicable federal laws and regulations regarding freedom of information, upon the earlier occurrence of either the disclosing Party's written request or completion of the receiving Party's need for any or all Confidential Information, such Confidential Information, all writings and material describing, analyzing or containing any part of such Confidential Information, including any and all portions of Confidential Information that may be stored, depicted or contained in electronic or other media and all copies of the foregoing shall be promptly delivered to the disclosing Party at the receiving Party's expense. In addition, as to Confidential Information that may be stored in electronic or other form, such Confidential Information shall be completely removed so as to make such Confidential Information incapable of being recovered from all computer databases of the receiving Party. The Parties shall

ensure that all user access and passwords are cancelled by the effective date of the termination or the expiration of this Agreement, whichever is sooner.

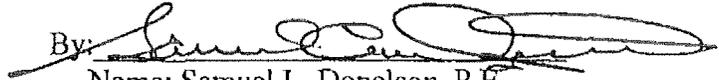
(iv) All Confidential Information supplied or developed by a Party shall be and remain the sole and exclusive property of the Party who supplied or developed it. The obligations under this subsection shall be perpetual (unless otherwise provided in this Agreement) or until such time as the Confidential Information is no longer considered confidential and/or privileged by the disclosing Party.

(n) Report to FAA. The Parties agree to provide an annual report to the FAA summarizing the Services provided by the Port Authority under this Agreement.

(o) Guiding Principles. This Agreement shall not be administered so as to violate any FAA Revenue Diversion principles applicable to SJTA pursuant to the FAA's "Policy and Procedures Concerning the Use of Airport Revenue," 64 Federal Register 7696, February 16, 1999, or any covenants made by SJTA and set forth in the SJTA Bond Resolution and loan agreement executed in connection with receipt of the TTFA Funds.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

**SOUTH JERSEY TRANSPORTATION
AUTHORITY**

By: 

Name: Samuel L. Donelson, P.E.

Title: Acting Executive Director

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

By: _____

Name:

Title:

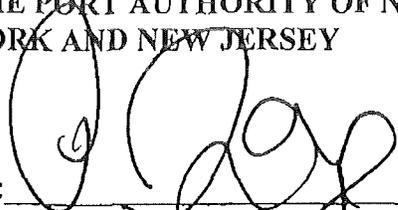
Port Authority Use Only	
Approval as to Terms:	Approval as to Form:

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

**SOUTH JERSEY TRANSPORTATION
AUTHORITY**

By: _____
Name:
Title:

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


By: _____
Name: Patrick J. Foye
Title: Executive Director

Port Authority Use Only	
Approval as to Terms:	Approval as to Form:
	

EXHIBIT A

AIRPORT MANAGEMENT AGREEMENT

BY AND BETWEEN

SOUTH JERSEY TRANSPORTATION AUTHORITY

AND

MACQUARIE AVIATION NORTH AMERICA 2 INC.
D/B/A AVPORTS

Effective Date: July 1, 2008

AIRPORT MANAGEMENT AGREEMENT

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AIRPORT MANAGEMENT AGREEMENT

July
This Airport Management Agreement ("Agreement") is made and entered into this *2nd* day of ~~May~~ July, 2008 and effective on 1st day of July, 2008 by and between South Jersey Transportation Authority, a quasi-public body corporate under the laws of the State of New Jersey hereinafter referred to as "SJTA" or "the Authority" and Macquarie Aviation North America 2 Inc. d/b/a AvPorts, a corporation organized and existing under the laws of the State of Delaware and duly admitted and authorized to do business in the State of New Jersey, hereinafter referred to as "AvPorts".

WITNESSETH:

WHEREAS, the Authority was created by the enactment of PL. 1991, c. 252, of the laws of the State of New Jersey, and is responsible for the management and operation of the Atlantic City International Airport, (hereinafter referred to as the "Airport"), pursuant to N.J.S.A. 27:25A-24; and

WHEREAS, the Authority owns the eighty-three (83) plus or minus acres which encompasses the Airport Terminal and the supporting facilities; and

WHEREAS, the Authority is responsible for the operation, maintenance, improvement and promotion of the Airport system;

WHEREAS, the Authority has the right to lease and license the use of land, property and facilities on the Airport and has full power and authority to enter into this Agreement in respect thereof; and

WHEREAS, pursuant to a Lease between the United States of America acting by and through the Department of Transportation, Federal Aviation Administration and the South Jersey Transportation Authority, dated April 1998, the Authority is the Lessee of approximately 1600 acres acquired to operate and develop the Atlantic City International Airport; and

WHEREAS, the Authority desires to continue the Airport as an air carrier and a general aviation facility, as well as for other uses; and

WHEREAS, the Authority entered into an agreement with AvPorts on August 20, 2001, ("Prior Agreement") under which AvPorts agreed to manage the operations of the Airport and enforce the terms and conditions of the Prior Agreement; and

WHEREAS, although the Prior Agreement was to expire on March 31, 2006, the Authority and AvPorts agreed to extend the Prior Agreement on a month to month basis until a Request For Proposal for the management of the Airport could be published and a new management agreement awarded; and

WHEREAS, a Request for Proposals was published on June 15, 2007, and, after

reviewing responses from prospective managers, the Authority has determined that AvPorts proposal would be most beneficial to the Authority; and

WHEREAS, in addition to providing management services to the Airport, AvPorts has agreed to make certain funds available to the Authority for the purposes set forth herein; and

WHEREAS, AvPorts desires and is ready, willing and able to perform management and other services at the Airport upon the terms and conditions herein.

WHEREAS, AvPorts and Authority hereto wish to execute this Agreement setting forth the rights, duties and obligations of the parties to each other;

NOW, THEREFORE, in consideration of the foregoing recitals, which recitals are contractual in nature, the mutual covenants herein, and for other good and sufficient consideration SJTA and AvPorts hereby mutually agree, each for itself and its successors and assigns, as follows:

ARTICLE I

DEFINITIONS

The terms defined herein shall have the meanings assigned to them in this Article. Singular terms shall include the plural, as well as the singular, and *vice versa*.

1.1 "Agreement" shall mean this Airport Management Agreement between SJTA and the AvPorts for the right, privilege and obligation to continuously and uninterruptedly through the Term of this Agreement, to manage the Airport operations as defined herein for the specific purpose described in Article III herein under the terms and conditions expressly set forth herein.

1.2 "Air Service Development" shall mean efforts to secure additional commercial air service at the Airport.

1.3 "Airport" shall mean the tract of land and any enlargements thereof with all improvements thereon and to be erected thereon, designated as "Atlantic City International Airport," including the existing Terminal, existing Concourses, and future Concourse Expansion(s).

1.4 "Airport Director" shall mean the individual appointed as Airport Director by the Authority.

1.5 "Effective Date" shall mean the date after SJTA approves this Agreement which is listed on the front of the Agreement.

1.6 "Term" shall have the meaning ascribed to it in Paragraph 2.1 herein, including

any Renewal Terms as provided in Paragraph 2.2.

1.7 "Terminal Facilities" shall mean the airline passenger terminal facilities at the Airport as it exists at the time of execution of this Agreement or as may be expanded during the Term of this Agreement.

ARTICLE II

TERM

2.1 This Agreement shall be binding on the Effective Date. The Term of this Agreement shall be for five (5) years commencing on the Effective Date and terminating on June 30, 2013.

2.2 Provided that AvPorts is not in default of this Agreement, beyond any applicable cure periods, and provided further that AvPorts has performed satisfactorily and with a level of service to the public consistent with the requirements of this Agreement, then the Authority shall have the option to renew this Agreement for one or more additional five (5) year terms (each a "Renewal Term") upon written notice to AvPorts of not less than ninety (90) days nor more than one hundred twenty (120) days prior to the expiration date of the then-current Term upon such terms and conditions as are agreed to between the parties.

ARTICLE III

MANAGEMENT RESPONSIBILITIES OF AVPORTS

AvPorts shall, pursuant to this Agreement manage and operate the Airport for the use and benefit of the Authority and the general public, seven (7) days a week, twenty-four (24) hours per day, throughout the Term of this Agreement. AvPorts shall manage the Airport in a safe and efficient manner and maintain the Airport in a clean, orderly, safe and operational condition in conformity with all applicable Federal, state and local laws, rules and regulations and other legal requirements. AvPorts shall use its best efforts to conduct such operation in a manner which is compatible with the interests of the Authority, the community surrounding the Airport and the users of the Airport. AvPorts shall have no liability for failure to perform its obligations to the extent, but only to the extent, that it is unable to perform by reason of: (i) the unreasonable failure of the Authority to provide any approval required hereunder and reasonably requested by AvPorts; (ii) the failure or refusal of the Authority to approve budgetary appropriations (or obtain funding from other sources) reasonably required for such performance; or (iii) Force Majeure, which is hereby defined to include any act of God or the public enemy, compliance in good faith with any applicable government regulation, law or order whether or not it proves to be invalid, fires, riots, labor disputes, natural disasters, terrorism, war (whether declared or

undeclared), civil disturbances or popular uprisings, epidemics, unusually severe weather, or any other cause beyond the reasonable control of AvPorts. AvPorts shall perform all of the duties normally associated with sound, safe, innovative, prudent and efficient airport management and shall provide all services as are customary and usual to such an operation, including, but not limited to, the services described in this Article 3.:

3.1 MAINTENANCE AND REPAIR SERVICES

AvPorts shall maintain and repair (structurally and otherwise) in a good, workmanlike manner and/or enforce the obligations of any tenant to maintain and repair in such manner:

- (a) All Authority airfields, whether owned, leased or otherwise controlled by Authority, including but not limited to aprons, taxiways and runways.
- (b) All Authority airfield lighting, including but not limited to apron, runway and taxiway lights, markings and stripings.
- (c) All equipment, machinery and tools provided by the Authority.
- (d) All Airport grounds, whether leased, owned or otherwise controlled by the Authority, (including, without limitation, employee parking lots, roadways, perimeter fences, grass cutting, general turf care, street sweeping, snow removal and ice control on all commercial and administrative parking lots and employee parking lots, walkways and aprons and removing or topping trees and shrubs where and when necessary).
- (e) All Airport buildings and structures including, without limitation, plumbing, electrical, sprinkler, heating and air conditioning systems, communication systems, elevators, escalators, loading bridges, apparatus and equipment flight information systems.
- (f) Provide janitorial services for the terminal building as required by normal use including, without limitation, maintaining the cleanliness of the exterior and interior. Notwithstanding anything contained herein to the contrary, Authority shall have the option, at any time during the Term, to elect to separately contract with an outside vendor to provide janitorial services or to authorize AvPorts to enter into a subcontract with a janitorial subcontractor acceptable to the Authority. If the Authority elects either of these options, it shall give notice to AvPorts of its decision. AvPorts will assist the Authority in negotiating with such outside vendor or subcontractor to arrive at an acceptable contract. If a contract or subcontract is awarded, the Authority shall be responsible for all costs of such contract, and AvPorts shall, as part of its duties

hereunder, oversee the performance of the janitorial services by the third party vendor to insure compliance by the third party vendor.

- (g) Scheduled maintenance and replacement of all flooring, including but not limited to, rugs, tile and other resilient flooring.
- (h) AvPorts shall operate all vehicles, equipment, machinery and tools provided by the Authority (hereinafter, the "Equipment") in a manner consistent with its intended purpose. AvPorts shall inspect Equipment prior to each and every use, and complete and submit to Authority any reports deemed necessary by Authority. AvPorts shall keep Equipment in a clean condition and must report any damage to or other maintenance issues with Equipment to the Airport Director immediately.

3.2 AVIATION SUPPORT FUNCTIONS

In a manner consistent with sound Airport operating and safety practices and all Federal Aviation Administration, Transportation Security Administration and other applicable Regulations, AvPorts shall:

- (a) Manage and operate the Airport 24 hours/day, 7 days/week, 365 days/year.
- (b) Supervise and oversee the daily scheduling and parking of scheduled air carriers, air charters and general aviation users, including without limitation, assignment of gates and loading bridges on an equitable basis.
- (c) Perform a full inspection of the Airport, in accordance with the requirements of Part 139, including but not limited to the Terminal Facilities, taxiways, runways, aprons, buildings, property and facilities during each scheduled work shift.
- (d) On a daily basis, or more frequently if necessary, remove any debris or foreign objects from aircraft operating areas and notify the Airport Director of any abnormal conditions which require corrective maintenance.
- (e) Ensure all Airport tenants and users comply with all Airport rules and regulations, Authority policies and directives, lease provisions and other applicable laws, regulations, and procedures.
- (f) Coordinate all construction, maintenance and other activities to insure minimum interference with Airport operations. As

reasonably requested by the Authority, escort, control and maintain on-site surveillance over all areas should access to the Airport operations area be required by contractors.

- (g) Issue Notices to Airmen (NOTAMS) to advise all tenants, FBO's and air carriers at the Airport of inclement weather, construction or any other activity that may have an impact on Airport operations.
- (h) Perform other services such as checks of emergency communications, telephone and alarm systems and inspection of all fueling equipment including trucks and storage facilities.
- (i) Assure that the Airport fuel farm(s) are operated with due regard for the operational requirements of the suppliers of petroleum products at the Airport.
- (j) Operate or cause all Authority aprons, taxiways and runways to be operated for the benefit of users thereof.
- (k) Provide basic first aid medical services to patrons and employees of the Airport.
- (l) Provide notification, and where necessary, assist the Authority Airport Fire Department in the event of a fire or other emergency.
- (m) Expeditiously remove or cause snow and ice to be removed from all Authority taxiways, runways, aprons, walkways, commercial, administrative and employee parking lots and access roads.
- (n) Provide ramp control services, including but not limited to, gate release, ground control coordination, and gate assignment for all aircraft.
- (o) Manage and operate, as may be directed by the Airport Director, Airport noise monitoring equipment and/or systems, including any updating required in accordance with Part 150.
- (p) Make or cause meteorological observations to be made at the Airport on a twenty-four (24) hour a day, seven (7) days a week basis, as frequently as may be required by the National Weather service, and transmit the results of such observations to the FAA and such government agencies and others as reasonably determined by the Airport Director to be appropriate for the operation of the Airport. Should the Authority wish to exercise this option during the course of the Agreement, all related costs will be reimbursed to Airports.

3.3 GROUND HANDLING SERVICES

AvPorts shall oversee all ground handling and fueling operations and aircraft deicing operations to assure that these services are provided safely and in a professional and equitable manner in accordance with all applicable rules and regulations. Notwithstanding the foregoing and subject to Article V hereof, upon request of the Authority, Avports shall perform, on behalf of the Authority, all Authority obligations to provide ground handling services at the Airport pursuant to agreements with air carriers utilizing the Airport. Such ground handling services shall be provided at such times and in such manner as may be required to safely and appropriately accommodate air carriers utilizing the Airport. In addition, such services shall conform to the requirements of the FAA and/or any other regulatory agency having jurisdiction thereof. Any ground handling services to be provided by AvPorts hereunder shall be agreed by the parties and identified in a separate addendum annexed hereto and made a part hereof containing terms and conditions for these services.

3.4 PLANS, RULES AND REGULATIONS

- (a) AvPorts shall, in accordance with all applicable Federal Aviation Administration Regulations ("FAR") and Transportation Security Administration ("TSA") Regulations ("TSAR") in effect during the Term of this Agreement, prepare and submit to the Authority the following required plans and documents, to include, but not be limited to:

Airport Emergency Plan
Airport Security and Contingency Plan
Airport Certification Manual
Snow and Ice Control Plan
Wildlife Hazard Management Plan
Airfield Mowing Plan
File FAA Form 7460 (as needed and as prepared by the Authority or its designee)
Airport Evacuation Plan

- (b) In addition to the above, AvPorts shall review and provide an update, annually or more frequently if directed by the Airport Director, the following:

Airport Rules and Regulations
Part 150 Noise Compatibility Program
Ground Transportation Plan (including curb management and traffic control)
Tenant Monitoring Plan

Minimum Standards

- (c) AvPorts shall be responsible for implementing all plans and programs referenced within this Section 3.4.

3.5 AUTHORITY CONTRACTS WITH THIRD PARTIES

AvPorts shall use its reasonable commercial efforts to:

- (a) Perform, on behalf of the Authority, all Authority obligations pursuant to existing and future agreements with airlines, fixed base operators and other tenants and concessionaires at the Airport.
- (b) Perform, on behalf of the Authority, all Authority obligations pursuant to leases with the FAA.
- (c) When required by the Airport Director, assist the Authority to develop and prepare written specifications and/or public bidding documents, in accordance with applicable federal, state and local laws, rules and regulations, and Authority procedures, for the procurement of such aviation and related services, equipment materials and supplies as may be necessary or desirable for proper operation of the Airport.
- (d) In connection with the solicitation of proposals and negotiation of such leases, concessions and other agreements as may be necessary or desirable for the proper operation of the Airport in accordance with federal, state and local laws, rules and regulations AvPorts shall advise and recommend specific programs and courses of action to the Authority and shall, with the cooperation of the Authority, implement such programs and courses of action in conformity with applicable law and Authority procedures.
- (e) Administer and monitor, on behalf of the Authority, all Authority agreements with Airport concessionaires, tenants and contractors, other than construction contractors, to insure full and complete compliance with the terms and conditions contained in such agreements, to insure that such agreements are carried out in a manner which is consistent with the proper operation of the Airport, provide coordination to avoid or minimize disruption of Airport operations and services and, on behalf of the Authority, perform or cause to be performed all obligations imposed on the Authority pursuant to such agreements.
- (f) Monitor, in conjunction with the Airport

Director, all Authority agreements with construction contractors and general contractors at the Airport to make sure that they comply with FAA regulations, and to make sure that the daily operation of the Airport is not unduly impacted.

- (g) Notify the Airport Director at least six (6) months in advance, when possible, of the forthcoming expiration, change or other deadline relative to leases, contracts and agreements at or concerning the Airport.

3.6 REPORTS AND DOCUMENTS

AvPorts shall:

- (a) Prepare and submit such reports and statistical data as may from time to time reasonably be requested by the Airport Director and such reports as are required pursuant to Schedule 2 hereof.
- (b) Subject to Paragraph 5.2, develop, prepare and assist the Authority in the submission of all applications and requisite supporting documentation, for all federal and state grants, Passenger Facility Charges and assistance for Airport development, planning, maintenance, management and operation, and attend such conferences with federal, state and local officials as may be appropriate to assist the Authority in obtaining such assistance or as requested by the Airport Director.
- (c) Assist the Authority in marketing and Air Service Development initiatives, including but not limited to providing general research, preparing, printing and producing documents, and preparing and conducting presentations for airline carriers, users and the general public.

3.7 ACCOUNTING AND FINANCIAL SERVICES

AvPorts shall:

- (a) Process Airport receipts and documents.
- (b) Prepare monthly Airport trial balances and monthly income and expense statements.
- (c) Balance and reconcile the Airport operating accounts.
- (d) Prepare Airport invoices and accounts receivable reports.

(e) Bill on behalf of the Authority, all monies due to the Authority in connection with the Airport, including but not limited to monies due pursuant to leases, contracts, concession agreements and arrangements with other persons conducting operations at the Airport.

(f) Use reasonable commercial efforts and due diligence to collect all monies billed pursuant to subparagraph (e) next above and all Airport fees including but not limited to Airport landing fees under then current Authority procedures. AvPorts shall use good business practices consistent with Authority policy to collect all aforesaid monies but shall in no event be liable for bad debts. In the event that such monies and/or fees are not paid within sixty (60) days of the due date thereof, AvPorts shall so notify the Airport Director of such delinquency, and the Authority shall be responsible to institute such collection proceedings as it deems necessary. Except for failure on the part of AvPorts to use reasonable commercial efforts as identified herein to attempt to collect debts as aforesaid, in no event shall AvPorts be liable for any bad debt, or the failure of any tenant, concessionaire, user or other person or entity to make payment of any monies or fees, or the costs of collecting same.

(g) Deposit on a daily basis all monies collected from the operation of the Airport in such account(s) as may be established by the Authority for such purpose.

(h) Keep all records and accounts in accordance with generally accepted accounting principles, consistently applied.

(i) Assist the Authority in the preparation and maintenance of capital control inventories of all Authority equipment, vehicles, machinery, tools and personal property situated at the Airport.

3.8 OPERATING BUDGET AND PLAN; CAPITAL BUDGET

3.8.1 AvPorts shall prepare and submit to the Airport Director, simultaneously with the execution of this Agreement and prior to August 15th of each Fiscal Year thereafter, a written Annual Operating Budget and a written Annual Operating Plan.

(a) The Annual Operating Budget shall itemize all anticipated revenues and operating expenses and shall justify such items of revenue and expense with supporting records and documents and in accordance with then existing Authority procedures. The Annual Operating Budget, as approved or

modified by the Airport Director, the Authority Budget Director and the Authority Executive Director shall be included in the Executive Director's proposed Authority Budget, as an integral but identifiable part of the Authority's budget. Such budget shall not take effect unless and until approved by the Authority's Board of Commissioners and the Authority Executive Director.

industry

- (b) The Annual Operating Plan shall include, but not be limited to: a maintenance and repair schedule; a schedule of proposed Airport fees; a list of all aviation and aviation-related concessionaires, contractors and tenants, a schedule of all leases, concessions, contracts and agreements to be negotiated or renegotiated; recommendations, if any, for revisions of the Emergency Contingency Plan, Airport rules and Regulations, Noise Reduction Plan, Community Information Plan and the Airport Security Plan; recommendations, if any, for non-capital improvements of Airport facilities and acquisition of equipment; a three (3) year projection of anticipated revenues and expenses based on a comparison with the previous fiscal year and prepared with reference to proposed and approved long-range plans, forecasts and other relevant data; a schedule of proposed staffing levels of full, part-time and seasonal employees (based upon appropriate consideration of the alternatives of using Authority personnel AvPorts personnel and/or outside contractors); any factors which may affect Airport operation and management. Appropriate modification of the Airport Operating Plan shall be made as required to conform to the Airport Operating Budget as adopted or amended.
- (c) The Annual Operating Budget will present AvPort's best estimate of the cost to the Authority for the performance of AvPorts' obligation under this Article III, and AvPorts agrees to use its best efforts to perform its obligations hereunder within such budget. If at any time during a Fiscal Year AvPorts has reason to believe that the costs which it expects to incur in the performance of its obligations under this Agreement for the balance of such Fiscal Year will exceed the Annual Operating Budget, AvPorts will promptly notify the Authority in writing to that effect. The notice shall state the estimated amount of additional funds required for the annual budget period, together with appropriate supporting documentation and evaluation of alternatives in accordance with Authority budget procedures. The Authority shall respond as promptly as practicable with respect to any such notice.
- (d) No provision of this Agreement shall be construed to require

AvPorts to advance its own funds to meet Authority obligation (i) to third parties, or (ii) to AvPorts pursuant to Article IV.

3.8.2 In consultation with the Airport Director, AvPorts shall prepare and submit to the Airport Director, in accordance with the then-existing Authority procedures, prior to August 1 of each year, a written Capital Budget for the following five (5) Fiscal years. Such Capital Budget shall include, but not be limited to: an appropriate construction schedule for each project in accordance with Authority practices; a projection of the total and annual cost of each project; an evaluation of the availability of federal, state or private financing for each such project, recommendations as to the most desirable method of financing each such project; and an evaluation of the effect of each such project on the Airport Master Plan and on Airport operations; preliminary data to provide order of magnitude cost estimates for each project; and a statement of all major actions required to implement each such project.

3.9 ATTENDANCE AT CONFERENCES AND MEETINGS

AvPorts shall:

- (a) Confer with and attend meetings of the South Jersey Transportation Authority Board of Commissioners ("Board") and otherwise assist such Board in the performance of its duties.
- (b) Confer with the Airport Director when requested by him or her, but in any event not less often than every thirty (30) days, and attend meetings with Authority officials and other persons as reasonably requested by the Airport Director to discuss matters relating to the Airport.
- (c) Confer with and attend meetings of appropriate advisory committees for the Board when requested.
- (d) Confer and cooperate as required with the chief executive officials of the communities affected by Airport operations.
- (e) Confer and cooperate with groups interested in the operation of the Airport including but not limited to the National Business Aircraft Association and the Aircraft Owners and Pilots Association.

3.10 PERSONNEL

- (a) On-Site Personnel: AvPorts shall employ an Airport staff (hereinafter the "Airport Operating Staff") composed of full-time qualified persons who shall perform their duties at the Airport in

accordance with this Agreement. Such staff shall include:

Airport Manager
Assistant Airport Manager

Personnel shall be scheduled to provide the presence of a sufficient staff during the 7-days per week, 24-hour per day operations contemplated hereby or such schedule as may from time to time be set by the Authority. AvPorts may employ, on a full, part-time or seasonal basis, such other personnel as may be necessary to fulfill its obligations hereunder subject to approval by the Authority in accordance with the Authority's budgetary procedures as provided herein.

- (b) Airport Manager: The Airport Manager, as AvPorts' on-site agent, shall supervise all onsite personnel and shall manage and supervise the operation of the Airport in such a manner as to insure compliance with this Agreement.
- (c) Selection of Airport Operating Staff: The Airport Operating staff shall be selected by AvPorts, in consultation with the Authority on the basis of training and experience. AvPorts shall timely submit to the Airport Director the resumes of all candidates for the positions of Airport Manager, Assistant Airport Manager, and shall schedule such interviews as are requested by the Airport Director. AvPorts shall, with the consent of the Airport Director, determine which candidates shall be hired for such positions and any vacancies. AvPorts shall select and employ its other Airport operating personnel on the basis of training and experience and shall furnish copies of the resumes of such personnel to the Airport Director no later than thirty (30) days after employment. The Airport Operating Staff shall in turn be supported by and supervised by AvPorts' corporate personnel who shall be available to provide appropriate professional, planning, real estate management, financial planning and management and other related assistance as required.
- (d) AvPorts shall control the conduct, demeanor and appearance of its officers, agents and employees so that a reasonable person would not find their conduct, demeanor or appearance objectionable. Upon an objection from the Authority, AvPorts shall immediately take all lawful steps necessary to remove the cause of the objection. If the Authority shall so request, AvPorts agrees to supply and require its employees to wear or carry badges or other suitable means of identification, which shall be subject to the prior and continuing approval of the Airport Director.

- (e) AvPorts will also provide additional support without cost to the Authority, from its corporate resources and management staff throughout the term of this Agreement. In the past, these resources may be utilized for development of Requests for Proposals, conduct of analytical studies and other support projects performed in response to a specific need. Onsite corporate support functions will be provided on-a regular basis throughout the term of this Agreement. More frequent availability of onsite corporate support will be arranged when the requirements of a particular project or issue warrant it.

3.11 ENFORCE AIRPORT RULES AND REGULATIONS

AvPorts shall:

- (a) Cooperate and assist the Authority in dealing with the FAA, the TSA, the New Jersey State Department of Transportation and all other federal, state and local agencies in all matters relating to the operation of the Airport.
- (b) Use its best efforts to insure that those utilizing the Airport as pilots or aircraft operators do so in the most noise conscious manner possible and in accordance with Part 150 Noise Compatibility Programs so as to minimize any adverse impact to the extent possible, consistent with safety and prudent aviation practices and procedures.
- (c) Provide technical advice on Airport operations, maintenance and development programs and projects.
- (d) Actively encourage the investment of private capital at the Airport.
- (e) Use its best efforts to attract such prospective tenants, concessionaires and contractors as may be desirable for the Airport.

3.12 SECURITY AND SAFETY

AvPorts shall enforce all Airport rules and regulations and oversee and maintain the Airport Security Program and all requirements of Transportation Security Administration Regulation (TSAR) 1542, including at a minimum day-to-day liaison with law enforcement agencies and at the following locations:

- (a) Terminal - Oversight of security screening, performance of crowd control/public safety, as required.
- (b) Landside - Providing security for frontage, parking areas, fuel farms, access roads and other landside facilities through the use of security patrols, closed-circuit television and any other necessary means. Providing escort for passengers and employees to parking areas upon request.
- (c) Airside - Operating and maintaining the civil aircraft Airport area, identification systems, security access control systems and procedures as required by TSAR 1542 and all other applicable Federal regulations. Providing security and safety measures necessary to protect personnel, equipment and facilities within the civil Airport area, including but not limited to, basic first aid and supplemental firefighting and report to the Airport Director on security related events.
- (d) Emergencies - Develop and implement procedures necessary to handle accidents and incidents (e.g. hijacking, bomb threats, and other criminal acts) and other emergencies in cooperation with law enforcement agencies and other Airport users, including, but not limited to, the FAA Technical Center.

3.13 MARKETING AND EXTERNAL AFFAIRS

AvPorts shall, subject to reimbursement of its out-of-pocket expenses which have been previously approved in writing by the Authority:

- (a) Provide assistance in the development and implementation of marketing strategies and programs including, at a minimum, furnishing of statistical information in a format suitable to the Airport Director.
- (b) Provide advice and assistance to the Authority on aviation industry relations.
- (c) Participate in any outside organizations as the Authority shall direct, provided that AvPorts participation in outside organizations other than at the Authority's direction will be at AvPorts' own expense.
- (d) Provide Airport tours to local schools and community groups as required.

- (c) Provide presentations to local business and civic groups as required by the Authority.

3.14 MISCELLANEOUS SERVICES

AvPorts shall use its best commercial efforts to:

- (a) Cooperate and assist the Authority in dealing with the FAA, the TSA, the New Jersey State Department of Transportation and any other federal, state and local agencies in all matters relating to the operation of the Airport.
- (b) Use best efforts to insure that those utilizing the Airport as pilots or aircraft operators do so in the most noise conscious manner possible and so as to minimize any adverse impact to the extent possible, consistent with safety and prudent aviation practices and procedures.
- (c) Provide technical advice on Airport operations, maintenance and development programs and projects.
- (d) Actively encourage the investment of private capital at the Airport.
- (e) Use its best efforts to attract such prospective tenants, concessionaires and contractors as may be desirable for the Airport.

ARTICLE IV COMPENSATION AND SCHEDULE OF PAYMENT

4.1 For the purpose of this Agreement:

- (a) The term "Fiscal Year" shall mean any twelve (12) month period commencing on the first day of January and ending on the last day of December during the term of this Agreement.
- (b) The term "Labor Costs" shall mean, and be limited to, the total cost of wages and salaries, including vacation allowance actually paid in accordance with AvPorts' policy, of the Airport Operating Staff, including Social Security; pension costs; unemployment insurance premiums; Workers' Compensation; health insurance, including dental and vision insurance; group life and accident insurance and any other similar employee benefit costs, (excluding

severance pay), imposed on AvPorts by collective bargaining agreements, or established by AvPorts' policy for its personnel generally; and federal, state and local payroll taxes but excluding general taxes, premiums and assessments of any kind imposed on AvPorts' corporate operations.

4.2 Labor Costs. The Authority shall pay AvPorts a sum equal to the total amount of Labor Costs as defined herein; provided, however, that such sum shall not exceed the total amount allocated for such Labor Costs in the Annual Operating Budget. Such sum shall be paid to AvPorts in the manner set forth in Schedule ____.

4.3 Fixed Fee. The Authority shall also pay AvPorts an annual Fixed Fee of Three Hundred Eighty Thousand Six Hundred Twenty-Five (\$380,625.00) Dollars prorated for the remainder of the Fiscal Year beginning January 1, 2008 and for the Fiscal Year Beginning January 1, 2009. Beginning on January 1, 2010, the fixed fee shall increase each Fiscal Year thereafter by three (3%) percent over the Fixed Fee in the Prior Fiscal Year. The Fixed Fee shall be payable in twelve (12) equal monthly installments with payment due the first day of each month.

4.4 It is expressly understood and agreed that the Authority reserves the right to develop, operate and utilize the Airport as it may determine to be proper and in the public interest. Nothing contained in this Agreement shall give AvPorts any right or claim against the Authority for additional compensation by reason of such determination by the Authority. Nor shall anything in this Agreement give AvPorts any right to make policy determinations regarding the development, utilization and operation of the Airport.

4.5 AvPorts' corporate auditors, or any other recognized accounting firm acceptable to the Authority Executive Director, shall conduct annual audits of AvPorts' operations at the Airport in accordance with generally accepted auditing practices, consistently applied. Without limiting the Authority's rights pursuant to Article 19 hereof, copies of such audits shall be promptly submitted to the Authority Director of Finance.

ARTICLE V ADDITIONAL SERVICES

5.1 In the event that the Authority desires to obtain Airport services in addition to those provided for in this Agreement, such as engineering designs, drawings, specifications or construction supervision, for a particular capital project, or detailed Airport and terminal traffic studies, AvPorts may submit a proposal or bid for such services which may be either accepted or rejected by the Authority. It is understood and agreed that AvPorts shall not be required to provide any such additional service unless and until terms and conditions, including without limitation, compensation for the additional services, are mutually agreed by the parties.

5.2 AvPorts' will provide an experienced facilities engineer to assist in the implementation of any Airport improvement program. The first 20 hours per year of such

facilities engineer's time shall be included in the Fixed Fee. AvPorts shall be reimbursed for any time in excess of 20 hours per year for the full cost of such facilities engineer plus all out-of-pocket expenses associated therewith.

5.3 AvPorts will also provide additional support, without cost to the Authority, from its corporate resources and management staff throughout the Term of this Agreement to the extent that such support relates to the provision of services set forth in Article III. AvPorts shall be reimbursed for any time and out-of-pocket expenses of its corporate resources and management staff relating to services not included in Article III, including but not limited to, completion of FAA Form 7460.

5.4 The Parties shall cooperate to identify feasible, self-financing development projects at the Airport. The Authority will advise AvPorts of any needs to retain a developer and/or general contractor, as the case may be, for self-financed or third party financed development projects. The Authority and AvPorts may, at the discretion of the Authority, enter into an agreement to develop and finance such projects at the airport during the Term of this Agreement.

5.5 From time to time, AvPorts may identify a project that would improve the operation or facilities of the Airport. AvPorts will inform the Authority of any such projects and, if approved by the Authority, manage such projects upon terms and conditions agreed by the Parties.

ARTICLE VI PLANNING AND DEVELOPMENT

6.1 It is understood and agreed by the parties that the Authority may from time to time employ consultants to analyze Airport facilities and operations, and/or for planning purposes. AvPorts shall cooperate with and assist such consultants as required by the Airport Director including, but not limited to:

- (a) Collecting and appropriately organizing information concerning the Airport and its operations with a view to such planning or study;
- (b) Submitting to such consultant(s) any appropriate suggestions and recommendations that AvPorts may develop as a result of its operations hereunder; and
- (c) Assisting the Airport Director in the Authority's review of any study or proposed plans.

6.2 When authorized by the Board of Commissioners, the Executive Director of the Authority and/or Airport Director, AvPorts may enter into other consulting contracts with the Authority being obligated to pay all or a portion of the costs of those contracts as agree by the Authority and AvPorts.

- 6.3 (a) Beginning with the Effective Date, and for each Fiscal Year during the Term of this Agreement, and any extensions thereto, AvPorts shall place Fifteen Thousand (\$15,000.00) Dollars up to a maximum of Seventy-five Thousand (\$75,000.00) Dollars for each Term in escrow for use by the Authority to offset the costs of Air Service Development. In addition, \$30,000 from the current Agreement shall be carried forward and made available to the Authority should the need arise for more than the \$75,000 pledged for each Term of the new Agreement. AvPorts shall coordinate and provide input into the Air Service Development with the Authority. At the direction of the Airport Director, AvPorts shall enter into such agreements with consultants or other third parties for Air Service Development. AvPorts shall be responsible for the payment of any fees or other related costs for such Air Service Development and agreements from the escrow account referred to herein. If the Authority determines in its sole discretion that it is necessary to utilize the total cost of Seventy-five Thousand (\$75,000.00) Dollars for Air Service Development prior to the end of the Term, AvPorts shall expend such monies for such costs and shall be reimbursed by the Authority upon submission of the appropriate documentation. Upon execution of this Agreement by AvPorts, AvPorts shall deposit into the escrow account any monies it was holding for Air Service Development under the terms of the Prior Agreement, which monies shall be available to the Authority for the uses provided herein, provided, however, that AvPorts' commitments under this Section 6.3 shall be reduced by any such amounts deposited.
- (b) When authorized by the Authority, AvPorts may enter into other consultant contracts with the Authority being obligated to pay all or a portion of the cost of those contracts as agreed by the Authority and AvPorts. The Authority will use its best efforts to reimburse AvPorts within thirty (30) days of receiving the bill from AvPorts for its payment to the consultant.

ARTICLE VII OTHER AVIATION ACTIVITIES

7.1 AvPorts shall only function as a fixed based operator at the Airport with the consent of the Authority. Likewise, AvPorts shall engage in other aviation or aviation-related enterprises in or on the Airport, whether directly or through related companies, only with the consent of the Authority. Any breach of this Article shall be deemed a material breach of Agreement.

ARTICLE VIII CONDITION OF AIRPORT

8.1 AvPorts acknowledges that the SJTA has not made any representation as to the

condition of the Airport, or any buildings, structures, improvements, equipment, vehicles, machinery and tools situated thereat. Prior to the execution hereof, or as promptly as practicable thereafter, AvPorts and the Airport Director or his assignee shall jointly inspect the Airport and identify any significant required repairs of existing facilities and equipment.

8.2 The SJTA shall, subject to the Annual Operating Budget, make available to AvPorts at the Airport, administrative office space and general office equipment (excluding computers) and Airport operations and maintenance facilities and equipment reasonably required for the operation of the Airport.

8.3 AvPorts shall not undertake or commence any construction projects at the Airport or any part thereof without obtaining the prior written consent of the SJTA, which consent may be withheld for any reason or for no reason.

8.4 All improvements to the Airport shall, upon completion, become the property of the SJTA without payment or compensation therefore, provided, however, that AvPorts may remove its personal property, goods, chattels and trade fixtures from the Airport within thirty (30) days after the termination of this Agreement, AvPorts agrees to repair any damage caused by such removal at its own cost and expense.

ARTICLE IX FAA REQUIREMENTS AND NON-DISCRIMINATION

9.1 AvPorts agrees to comply with, and to cause its officers, employees and agents to comply with, all applicable rules and regulations promulgated by the FAA, the NJDOT and all other applicable federal, state and local laws, rules and regulations and to promptly obey all orders, directives and requirements in respect thereof. AvPorts shall not take any action which might impair the Authority's qualification for government grants.

9.2 AvPorts will not discriminate or permit discrimination against any person or class of persons by reason of race, color, creed, sex, religion, age, physical or mental handicap or national origin, with respect to anything done pursuant to or affected by this Agreement, in any manner prohibited by Part 21 of the U.S. Department of Transportation Regulations or any amendments thereto or any other applicable federal, state or local statute law, regulation, rule or requirement, including but not limited to grant agreements heretofore or hereafter executed by the SJTA.

9.3 AvPorts shall furnish any accommodations and/or services it may be required to provide at the Airport on a fair, equal and non-discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service. AvPorts shall not take any action which might impair the Authority's qualification for government grants.

9.4 AvPorts shall operate the Airport so as to make Airport accommodations and services available to the public without discrimination on the basis of race, creed, color, sex, religion, age, physical or mental handicap or national origin and shall not withhold its

accommodations or services from any member of the public without just cause.

9.5 Non-compliance with any provision of this Article shall constitute a material breach of this Agreement.

9.6 AvPorts shall insert the terms and provisions of this Article in any agreement it may negotiate with third parties with respect to the Airport

ARTICLE X BANKRUPTCY

10.1 Upon the occurrence of one or more of the following events, the Authority may terminate this Agreement on ten (10) business days written notice to AvPorts, unless within that ten (10) business day period, AvPorts provides adequate assurance of the future performance of this Agreement on terms reasonably acceptable to the Authority:

- (a) If AvPorts shall generally not pay its debts as they become due or shall admit in writing its inability to pay its debts, or shall make a general assignment for the benefit of creditors; or if AvPorts shall commence any case, proceeding or action seeking to have an order for relief entered on its behalf as debtor or to adjudicate it as bankrupt or insolvent or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property; or AvPorts takes any corporate action to authorize or in contemplation of any of the actions set forth in this §10.1(a).
- (b) If AvPorts shall be adjudicated insolvent or bankrupt in an involuntary proceeding, or if a receiver, trustee, custodian or other similar official is appointed in such proceeding or if any case, proceeding or action is commenced seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or of its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors and said adjudication or appointment of a receiver or trustee remains unvacated or not stayed by appeal for a period of sixty (60) days.

ARTICLE XI

ASSIGNMENT

11.1 AvPorts shall not, except as provided in this Article, assign, mortgage or transfer this Agreement or any part hereof, or any payments due hereunder, without the prior written and duly authorized consent of the SJTA, which consent shall not be unreasonably withheld or delayed; provided however that upon advance written notice to the Authority the foregoing shall not apply to and shall not prevent the assignment of this Agreement to any corporation or other entity with which AvPorts may merge or consolidate, or which may succeed to a controlling interest in the business of AvPorts. Notwithstanding anything to the contrary in this Article XI, AvPorts may assign this Agreement to AFCO AvPorts Management LLC upon advance written notice to the Authority.

11.2 An assignment or transfer within the meaning of this Article shall be deemed to include one or more sales or transfers by operation of law or otherwise, or creation of new stock or new classes of stock, merger with another corporation, corporate or other amendments, otherwise by which a controlling interest of AvPorts' stock shall be vested in a party or parties who are not vested with a controlling interest as of the date hereof.

11.3 AvPorts agrees to provide the SJTA at the time notice is given of any proposed assignment or transfer, with whatever information the SJTA shall request concerning the identity, background, financial responsibility and other qualifications of the entity or entities involved in any such proposed transfer or assignment. AvPorts acknowledges that the SJTA cannot and will not act upon any request for approval of any such proposed transfer or assignment unless and until complete and accurate information is supplied regarding the parties thereto. AvPorts further agrees to furnish, at such times as the SJTA may request, a complete statement sworn and subscribed by the president or other executive officer of AvPorts, setting forth the names of all stockholders of the AvPorts and the extent of their respective holdings and the names and extent of beneficial interest of any other parties owning ten (10%) percent or more of AvPorts' stock.

11.4 AvPorts acknowledges that its assurance of full and faithful performance of the provisions of this Article XI is a special inducement for the SJTA to enter into this Agreement. Non-compliance with the provisions hereof shall constitute a material default hereunder and without limiting any other right or remedy to which the SJTA may be entitled, either at law or hereunder, the SJTA shall be entitled to terminate this Agreement in accordance with Article XI hereof.

11.5 Any assignment of this Agreement approved and ratified by the SJTA shall be on the condition that the assignee accepts and agrees to all of the terms, conditions and provisions of this Agreement and agrees to accept and discharge all of the covenants and obligations of AvPorts hereunder.

11.6 The SJTA reserves the right to assign this Agreement upon advance written notice to AvPorts if it sells, transfers or otherwise disposes of the Airport or transfers the responsibility for the operation and oversight of the SJTA to another entity.

ARTICLE XII INSURANCE

12.1 Subject to full reimbursement by the Authority of all premiums and any deductibles, AvPorts shall provide, pay for and maintain with companies satisfactory to the Authority, the types of insurance described herein. All insurance shall be from responsible insurance companies eligible to do business in the State of New Jersey. The required policies of insurance shall be construed in accordance with the laws of the State of New Jersey. The Authority, Atlantic City International Airport, The United States of America Department of Transportation – Federal Aviation Administration and W.J. Hughes Technical Center shall be named as additional insureds with respect to any Comprehensive General Liability policy. Sixty (60) days' written notice by registered or certified mail shall be given the Authority of any cancellation, intent not to renew, or reduction in the policies' coverages, except in the application of the policy limits provision. In the event of a reduction in any policy limit, AvPorts shall take immediate steps to have it reinstated. All insurance coverages of AvPorts shall be primary to any insurance or self-insurance programs carried by the Authority as to the specific coverages provided to the Authority in the policies required under this Agreement. The insurance coverages and limits required shall be evidenced by properly executed certificates of insurance on forms acceptable to the Authority. The certificate of insurance shall be personally or manually signed by the authorized representative of the insurance company shown in the certificate with proof that he/she is an authorized representative thereof. In addition, certified, true and exact copies of all insurance policies required shall be provided to the Authority on a timely basis, if requested by the Authority. The acceptance of delivery to the Authority of any certificate of insurance evidencing the insurance coverages and limited required in this Agreement does not constitute approval or agreement by the Authority that its insurance requirements have been met or that the insurance policies shown in the certificates of insurance are in compliance with these requirements. No operation under this Agreement shall commence at the site unless and until the required certificates of insurance are in effect and the written notice to proceed is issued to AvPorts by the Authority.

12.2 The insurance coverages and limits required of AvPorts under this Agreement are designed to meet the minimum requirements of the Authority. They are not designed as a recommended insurance program for AvPorts. AvPorts alone shall be responsible for the sufficiency of its own insurance program. As to any question AvPorts has concerning its exposure to loss under this Agreement or the possible insurance coverages needed therefore, it should seek professional assistance. If the general liability required herein is to be issued or renewed on a "claims made" form as opposed to the "occurrence" form, the retroactive date for coverage shall be no later than the commencement date of the occupancy or operations of AvPorts and shall provide that in the event of cancellation or non-renewal, the discovery period for insurance claims (tail coverage) shall be unlimited.

12.3 All of the required insurance coverages shall be issued as required by law and shall be endorsed where necessary to comply with the minimum requirements contained herein. Renewal certificates of insurance on the Authority's form shall be provided to the Authority thirty (30) days' prior to expiration of current coverages. Notwithstanding the foregoing, the working of all policies, forms and endorsements must be acceptable to the Authority. Should at

any time AvPorts not maintain the insurance coverages required, the Authority may terminate or suspend this Agreement.

12.4 The following are the required insurance and limits that shall be maintained by AvPorts:

1. AvPorts shall purchase the following insurance coverages for not less than the limits specified below or required by law, whichever is greater.

- Commercial general liability insurance or its equivalent for bodily injury, personal injury and property damage including loss of use, with minimum limits of:

\$400,000,000	CSL any one-occurrence/any one aircraft and
\$400,000,000	In the annual aggregate as respects Products and Completed Operations
\$25,000,000	Personal injury, any one occurrence, any one offense, in the aggregate annually
\$1,000,000	Fire Legal Liability

This insurance shall include coverage for all of the following:

- Comprehensive General Liability including Airport Premises, Products and Completed Operations Liability, Contractual Liability, Hangarkeeper's Liability, Host Liquor Liability, Personal Injury Liability, Independent Contractors Liability, Fire Legal Liability and Auto Liability while on airport premises.
- Coverage includes war liability subject to a limit of liability of \$50,000,000 per occurrence and in the aggregate.
- Coverage for Terrorism, per the Federal Terrorism Insurance Act of 2002 (including subsequent acts of Congress pursuant to the Act).

2. Workers compensation insurance or its equivalent with statutory benefits as required by any state or federal law, including standard "other states" coverage; employer's liability insurance or its equivalent with minimum limits of:

\$1,000,000	each accident for bodily injury by accident (LSHW);
\$1,000,000	each employee for bodily injury by disease; and
\$1,000,000	policy limit for bodily injury by disease.

Insurance specified herein shall be primary, and any other insurance or self-insurance coverage, or indemnity available to the Owner and Owner's, shall be primary and without right of contribution from any other insurance as may be carried by the Certificate Holder.

If it is determined that a loss covered by such insurance is attributable to AvPorts negligent acts or omissions, AvPorts shall reimburse the Authority for its deductible up to

\$8,000.00 per claim.

3. Vehicle Liability Insurance shall be maintained by AvPorts for the ownership, maintenance and use of all owned, non-owned, leased, hired or rented vehicles. The limit of coverage shall not be less than:

Bodily Injury and Property
Damage Liability - \$2,000,000 combined single limit each
occurrence

All insurance requirements and limits described in this section shall be provided by AvPorts at all times during the Term of this Agreement, unless such requirements are modified in writing by the Authority and AvPorts. The amount of insurance required hereunder in no way limits the right of the Authority to proceed against AvPorts for damages in excess of the policy amounts required under Article XII.

ARTICLE XIII INDEMNIFICATION

13.1 The SJTA, at its sole cost and expense, shall defend any suit, action or proceeding instituted against AvPorts and shall indemnify and hold harmless AvPorts, its directors, officers, employees, agents from any damages, liabilities, costs and expenses (including reasonable professional fees and expenses) arising directly or indirectly from any such suit action or proceeding insofar as the same is based upon:

- (a) Any act or omission of the Authority, its officers, employees or agents (other than AvPorts) in connection with the Airport;
- (b) Airport operational noise or emissions and/or noise or emissions from aircraft flights from, to or at the Airport as now constituted or as the same may exist during this Agreement and any action taken in compliance with any court order or the laws of the Federal, State or local government, irrespective of the legal theory upon which such suit, action or proceeding is predicated, except that such indemnity shall not apply to the extent that any such loss, penalty, damage or liability may be caused by the willful misconduct, negligence or material breach of this Agreement on the part of AvPorts personnel having supervisory authority at the Airport; and
- (c) Any and all fines, suits, procedures, claims and actions of every nature, kind and description, and all costs associated therewith (including attorneys', consultants' and engineers' fees), arising out of or in any way connected with any deposit, spill, discharge or other release of hazardous, toxic, dangerous or harmful substances

in violation of any environmental protection laws, statutes, regulations, whether Federal, State, local or regional, affecting the Airport and/or the premises, including, but not limited to, any liability existing or arising under or which may in the future arise under any one or more of the following:

- (i) New Jersey Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq. as amended;
 - (ii) The Comprehensive Environmental Responsibility Compensation and Liability Act, 42 U.S.C. § 1251 et seq., as amended;
 - (iii) The Resource Conservation and Recovery Act, 42 U.S.C. § 9601, et seq., as amended;
 - (iv) The Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., as amended;
 - (v) The Clean Air Act, 42 U.S.C. § 7401 et seq., as amended; and
 - (vi) Any and all rules and regulations promulgated thereunder.
- (d) AvPorts shall give the Authority prompt written notice of the institution of any such suit, action or proceeding, based upon paragraphs a, b and c above, and the Authority shall defend or cause to be defended any suit, action or proceeding based on such allegations. AvPorts shall give the Authority all available information, assistance and authority to do so. The Authority shall have full control of and responsibility for the defense of any such suit, action or proceeding, including the right to perfect appeals and to effect settlements or compromises. The Authority shall investigate, respond to and defend any such claim, even if the same is false, frivolous or fraudulent. AvPorts may retain its own counsel, at its own cost and expense, to defend any such suit, action or proceeding, and in such event, the Authority shall have no obligation to pay the cost of any professional fees or expenses incurred by AvPorts.

13.2 AvPorts, at its sole costs and expense, shall defend any suit, action or proceeding instituted against the Authority, its Commissioners, Directors, officers, employees, agents and representatives, shall indemnify and hold the Authority harmless from any damages, liabilities, costs and expense (including reasonable professional fees), arising directly or indirectly from any such suit, action or proceeding insofar as the same is based upon:

- (a) Any act or omission of AvPorts, its officers, employees or agents in connection with the Airport.

- (b) Any and all fines, suits, procedures, claims and actions of every nature, kind and description, and all costs associated therewith (including attorneys', consultants' and engineers' fees), arising out of or in any way connected with any deposit, spill, discharge or other release of hazardous, toxic, dangerous or harmful substances in violation of any environmental protection laws, statutes, regulations, whether Federal, State, local or regional, affecting the Airport and/or the premises, including, but not limited to, any liability existing or arising under or which may in the future arise under any one or more of the following:
- (i) New Jersey Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq. as amended;
 - (ii) The Comprehensive Environmental Responsibility Compensation and Liability Act, 42 U.S.C. § 1251 et seq., as amended;
 - (iii) The Resource Conservation and Recovery Act, 42 U.S.C. § 9601, et seq., as amended;
 - (iv) The Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., as amended;
 - (v) The Clean Air Act, 42 U.S.C. § 7401 et seq., as amended; and
 - (vi) Any and all rules and regulations promulgated thereunder.
- (c) The Authority shall give the AvPorts prompt written notice of the institution of any such suit, action or proceeding, based upon paragraphs a. and b above, and AvPorts shall defend or cause to be defended any suit, action or proceeding based on such allegations. The Authority shall give AvPorts all available information, assistance and authority to do so. AvPorts shall have full control of and responsibility for the defense of any such suit, action or proceeding, including the right to perfect appeals and to effect settlements or compromises. AvPorts shall investigate, respond to and defend any such claim, even if the same is false, frivolous or fraudulent. The Authority may retain its own counsel, at its own cost and expense, to defend any such suit, action or proceeding, and in such event, AvPorts shall have no obligation to pay the cost of any professional fees or expenses incurred by the Authority.

13.3 In no event will either AvPorts or the Authority have any liability to the other for punitive, exemplary or consequential damages (including, but not limited to, lost profits) in excess of \$5,000,000.00 over the lifetime of the Agreement.

ARTICLE XIV TERMINATION

14.1 Upon the occurrence of any of the following events or at anytime thereafter during the continuance thereof, the Authority may terminate the rights of AvPorts under this Agreement upon thirty (30) days' written notice, such termination to be effective upon the date specified in such notice, provided that AvPorts has not cured the breach within such thirty (30) day period, or if such breach is not capable of being cured within such thirty (30) day period, shall not have commenced such cure within such period or shall not continue prosecuting the same with due diligence:

- (a) Except as may be provided in Article XI of this Agreement, entitled "Assignment," the interest of AvPorts under this Agreement shall be transferred to, pass to or devolve upon, by operation of law or otherwise, any other person, firm or corporation; or
- (b) Except as authorized by Article XI, AvPorts shall, without the prior written approval of the Authority, become a successor or merged corporation in a merger, a constituent corporation in a consolidation, or a corporation in dissolution; or
- (c) 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 assets of AvPorts and such possession or control shall continue in effect for a period of sixty (60) working days; or
- (d) AvPorts shall voluntarily abandon or discontinue its operations at the Airport or, after exhausting or abandoning any right of further appeal, AvPorts shall be prevented for a period of sixty (60) days by action of any governmental agency having jurisdiction thereof from conducting its operations at the Airport, regardless of the fault of AvPorts; or
- (e) AvPorts shall fail to keep, perform and observe each and every promise and agreement set forth in this Agreement on its part to be kept, performed or observed, within thirty (30) days after receipt of notice of default thereunder from the Authority (except where fulfillment of its obligation required activity over a period of time and AvPorts shall have commenced substantially to perform whatever may be required for fulfillment within thirty (30) days after receipt of notice and continues diligently such substantial performance without interruption, except for causes beyond its control).

14.2 AvPorts reserves the right, at its option, to terminate this Agreement for cause, in the event of a material breach by the SJTA, by giving the SJTA thirty (30) days' notice of such breach, provided the SJTA has not cured such breach within such thirty (30) day period, or, if such breach is not capable of being cured within such period, shall not have diligently commenced such cure within such period or shall not continue prosecuting the same with due diligence.

Upon completion of the initial Term as set forth in Section 2.1, and any extension thereof, either Party shall have the right to terminate this Agreement for no cause on six (6) months notice to the other party, without any further obligation to the other party.

14.3 No waiver by either party of any default on the part of the other party in performance of any of the terms, covenants or conditions hereof to be performed, kept or observed by such party shall be or be construed to be a waiver by the non-defaulting party of any other or subsequent default in performance of any of the valid terms, agreements and conditions.

14.4 It is understood and agreed that any rights and remedies reserved pursuant to this Article are in addition to any other rights or remedies the Authority or AvPorts may have pursuant to this Agreement or to applicable law, to seek judicial enforcement or any other lawful remedy.

ARTICLE XV ADVERTISING AND PROMOTION

15.1 AvPorts shall not erect, install, place or use at the Airport any advertising or promotional device intended to attract attention to AvPorts as a business entity or otherwise, including, but not limited to signs and electronic or radio loudspeakers, without obtaining the prior written consent of the Airport Director, such consent not to be unreasonably withheld or delayed. Nothing contained in this Article shall limit AvPorts' responsibility to erect directional, warning or safety signs or signals.

ARTICLE XVI BROKERAGE

16.1 AvPorts Services and the Authority each represent and warrant to the other that no broker or finder has been concerned or involved in the introduction of the parties or the negotiation of this Agreement, and that no broker or finder is, or may be, entitled to any commissions relating to or in connection with this agreement.

ARTICLE XVII RELATIONSHIP OF THE PARTIES

17.1 By this Agreement, the Authority retains AvPorts as its agent for the management

and operation of the Airport. Neither a partnership nor a joint venture is created hereby. AvPorts shall notify all potential contractors, tenants and others that it has no legal authority to bind the Authority and that any agreements negotiated with such contractors, tenants and others must be submitted to the Airport Director for processing and approval in accordance with applicable law and Authority procedures then in effect.

ARTICLE XVIII SUBCONTRACTING

18.1 AvPorts shall not enter into any subcontract to effectuate the terms of this Agreement without obtaining the prior written consent of the Authority in accordance with then existing Authority procedures, such consent not to be unreasonably withheld or delayed.

ARTICLE XIX RIGHT OF ACCESS AND INSPECTION

19.1 The SJTA reserves the right to observe, monitor, review and inspect any aspect of the Airport or its operations at any time. The SJTA shall have access at all reasonable times to all Airport operating and financial records and data maintained by AvPorts which records and data shall be maintained in AvPorts' offices in SJTA and the SJTA shall have the right to audit AvPorts' operations at the Airport. AvPorts shall retain all its financial records and data relating to Airport operations in a business office of SJTA for a period of five (5) years from the date of termination of this Agreement.

ARTICLE XX NOTICES

20.1 All notices to either party pursuant to this Agreement shall be in writing, signed by the party giving such notice, and shall be served either personally or by certified mail, return receipt requested, as follows:

TO SJTA:

Executive Director
South Jersey Transportation Authority
P.O. Box 351
Hammonton, New Jersey 08037

With a copy to:

Airport Director
Atlantic City International Airport

Suite 106
Egg Harbor Township, New Jersey 08234

TO AVPORTS:

Macquarie Aviation North America 2 Inc.
90 Moonachie Avenue
Teterboro, New Jersey 07608
Attn: President

With a copy to:

The Wicks Group, PLLC
1215 17th Street, NW
Washington, DC 20036
Attn: Glenn P. Wicks

or to such other addresses as either party may designate by notice.

**ARTICLE XXI
COMPLIANCE WITH LAWS, RULES AND REGULATIONS**

21.1 AvPorts shall obey, and shall cause all personnel employed by it, to obey all present or future regulations of the Authority and all State and Federal laws governing its operations at the Airport, together with any and all rules and regulations of any State, Federal or municipal agency, commission, body or officer having jurisdiction over the Airport.

**ARTICLE XXII
NO WAIVERS**

22.1 No waiver by either party hereto at any time or any of the terms, conditions, covenants or agreements of this Agreement, or noncompliance therewith, shall be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant or agreement herein contained, nor of the strict and prompt performance thereof by either party. No delay, failure or omission of either party to exercise any right, power, privilege or option arising from any default shall impair any such right, power, privilege or option, or be construed to be a waiver of any such default or relinquishment thereof, or acquiescence therein. No option, right, power, remedy or privilege of either party shall be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, powers, options or remedies given to either party by this Agreement are cumulative and no one of them

shall be exclusive of the other or exclusive of any remedies provided by law, and that the exercise of one right, power, option or remedy by either party shall not impair its rights to any other right, power, option or remedy.

ARTICLE XXIII COMPLIANCE WITH REGULATIONS

23.1 Grant Agreements. The Airport and the Airport Terminal Facilities are subject to the terms of those certain sponsor's assurances made to guarantee the public use of the Airport as incidental to grant agreements between the Authority and the United States of America, as amended, and the deed from the City of Atlantic City, predecessor in title to the Airport, and the Authority represents that none of the provisions of this Agreement violate any of the provisions of the Sponsor's Assurance Agreement or said deed. AvPorts will comply with all FAA, TSA or other federal, state, or local requirements and regulations (the "Regulations") which are imposed upon the Airport in connection with any grant or grant application.

23.2 Non-exclusive rights. It is further covenanted and agreed that nothing contained in this Agreement shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958 or any other Regulations.

23.3 Right to Develop Airport. It is further covenanted and agreed that the Authority reserved the right to further develop or improve the Airport, as well as all landing areas and taxiways, as it may see fit, regardless of the desires or view of AvPorts and without interference or hindrance.

23.4 Subordination of Agreement. AvPorts covenants and agrees that this Agreement shall be subordinate to the provisions of any existing future agreements between the Authority and the United States Government relative to the operations or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of Federal funds for the development of the Airport to the extent that the provisions of any such existing or future agreements are generally required by the United States at other civil airports receiving Federal funds; and provided that the Authority agrees to give AvPorts written notice in advance of the execution of such agreements and of any provisions which will modify the terms of this Agreement.

23.5 Right to amend. In the event that the FAA, TSA or any other federal, state or local governmental authority requires modifications or changes in this Agreement as a condition precedent to the granting of material funding for the improvement of the Airport, AvPorts agrees to consent to such amendments, modifications, revisions, supplements or deletions of any of the terms, conditions or requirements of this Agreement as may be reasonably required to obtain such funds; provided, however, that in no event will AvPorts be required, pursuant to this section, to agree to a decrease in the fees provided for hereunder or to a material reduction in the privileges and rights granted under this Agreement.

ARTICLE XXIV

INTERPRETATION

24.1 The Article headings herein are inserted only as a matter of convenience and in no way define, or limit the scope or intent of any provision hereof.

24.2 This Agreement and Schedules annexed hereto constitute the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings and may be amended only by a duly executed and authorized written instrument signed by both parties.

24.3 In the event of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party hereto on the basis that such party did or did not author the same.

24.4 This Agreement, and the rights and obligations of the parties hereto, shall be governed by and construed in accordance with the laws of the State of New Jersey.

24.5 All the terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. The provisions of this section shall not be deemed as a waiver of any of the conditions against assignment hereinbefore set forth.

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

SOUTH JERSEY TRANSPORTATION
AUTHORITY

BY: Bart Mueller

Printed Name: Bart Mueller

Title: Executive Director

Attest:

Susan Drake

Printed Name: Susan Drake

Secretary

DATE SIGNED: 7/2/08

MACQUARIE AVIATION NORTH
AMERICA INC. d/b/a AVPORTS

BY: Louis T. Pepper

Printed Name: Louis T. Pepper

Attest:

Virginia Jill Crotter

Title: CEO

Printed Name: Virginia Jill Crider

Title: Executive Assistant

DATE SIGNED: 6.24.08

EXHIBIT B

Atlantic City Airport
Current Insurance Requirements - Avports

A	B	C	D
<u>Commercial Liability</u>	<u>Coverage Limits</u>	<u>Effective Periods</u>	<u>Carrier & Policy#</u>
			Commercial and Industry Insurance
Each Occurrence	\$400,000,000.00	11/1/2012 - 11/1/2013	AP003790591-05
War Risk	\$50,000,000.00		
Hangarkeepers each loss/each aircraft	\$400,000,000.00		Agent: Aviantion Risk Consulting
with \$5,00.00 ded			2014-B Garden Road
Aircraft Property ded - \$5,000.00			Greensboro NC 27410
Jet Aircraft Prop ded - \$25,000.00			
Cargo - \$1,000.00 ded			