

Lease

Agreement

NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY,
as Lessor

AND

AMB INSTITUTIONAL ALLIANCE FUND III, LLC,
as Lessee (Lot 23)

AMENDMENT TO LEASE AGREEMENT (LOT 23)

Dated as of June 22, 2004

New York City Industrial Development Agency
(2001 International Airport Centers L.L.C. Project - Lot 23)

AMENDMENT TO LEASE AGREEMENT (LOT 23)

THIS AMENDMENT TO LEASE AGREEMENT (LOT 23), made as of June 22, 2004 (this "Amendment to Lease"), between **NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York (the "Agency"), having its principal office at 110 William Street, New York, New York 10038, party of the first part, and **AMB INSTITUTIONAL ALLIANCE FUND III, LLC**, a limited liability company duly organized and existing under and by virtue of the laws of the State of Delaware (the "Lessee (Lot 23)"), having its principal office at Pier 1, Bay 1, San Francisco, California 94111, party of the second part, supplemental to and amendatory of a certain Lease Agreement (Lot 23), dated as of May 1, 2001 (the "2001 Lease"), between the Agency and IAC New York-IV L.L.C., a Delaware limited liability company (the "Original Lessee (Lot 23)") (the "Pre-Assignment Original Lease") and as assigned by the Original Lessee (Lot 23) to the Lessee (Lot 23) pursuant to a certain Assignment and Assumption Agreement (Lot 23) dated as of June 22, 2004 among the Original Lessee (Lot 23), the Lessee (Lot 23) and the Agency (collectively, together with the Pre-Assignment Original Lease, the "Original Lease", and, together with this Amendment to Lease, being collectively referred to herein as the "Lease"):

WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act"), authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and furnish land, any building or other improvement, and all real and personal properties, including but not limited to machinery and equipment, deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, industrial or civic purposes, to the end that such agencies may be able to promote, develop, encourage, assist and advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act, the Agency was established by Chapter 1082 of the 1974 Laws of New York, as amended (together with the Enabling Act, the "Act"), for the benefit of The City of New York (the "City") and the inhabitants thereof; and

WHEREAS, to accomplish the purposes of the Act, the Agency entered into negotiations with the Original Lessee (Lot 23), the Other Original Lessees (as defined herein) and International Airport Centers L.L.C., a Delaware limited liability company ("IAC"), for a warehousing, distribution and commercial "project" within the meaning of the Act within the territorial boundaries of The City of New York and located on that certain lot, piece or parcel of

land in Section 4, Block 13791 and Lot 23, generally known as and by the street address 230-79 International Airport Center Boulevard, Jamaica, New York (the "Land (Lot 23)"), and otherwise described in Exhibit A — "Description of Land (Lot 23)" — attached hereto and made a part hereof; and

WHEREAS, the project consists of the acquisition and construction of a warehousing, distribution and commercial facility in Jamaica, New York (the "Facility (Lot 23)"), consisting of the acquisition of a certain parcel of real property aggregating approximately 7.386 acres and the construction of a building of approximately 141,782 square feet thereon, all for the leasing thereof to one or more tenants for use in the warehousing and distribution of air cargo and the intermodal transportation industry and ancillary office uses and other ancillary commercial uses related thereto, located on 230-79 International Airport Center Boulevard, Jamaica, New York (the "Project (Lot 23)"); and

WHEREAS, to facilitate the Project (Lot 23), the Agency, the Original Lessee (Lot 23), the Other Original Lessees and IAC entered into a "straight-lease transaction" within the meaning of the Act pursuant to the Agency's Industrial Incentive Program (Straight-Lease) in which (i) the Agency acquired fee simple title to the Land (Lot 23) and the Improvements (Lot 23) and (ii) the Agency leased its interest in the Facility (Lot 23) to the Original Lessee (Lot 23) pursuant to the Original Lease; and

WHEREAS, the Project (Lot 23) is substantially complete with respect to base building construction; and

WHEREAS, pursuant to an Assignment and Assumption Agreement (Lot 23) among the Lessee (Lot 23), the Original Lessee (Lot 23) and the Agency, the Original Lessee (Lot 23) assigned to the Lessee (Lot 23) all of the right, title and interest of the Original Lessee (Lot 23) in and to the Original Lease and the Guaranty Agreement (Lot 23), the Lessee (Lot 23) assumed all of the obligations, covenants and agreements of the Original Lessee (Lot 23) in and to the Original Lease and the Guaranty Agreement (Lot 23), and the Agency consented to the same; and

WHEREAS, the Lessee (Lot 23) has requested that the Agency enter into this Amendment to Lease and the Agency, by resolution adopted by the Agency on March 9, 2004, has authorized the entering into of this Amendment to Lease;

NOW, THEREFORE, in consideration of the premises and the respective representations and agreements hereinafter contained, the parties hereto agree as follows (provided that in the performance of the agreements of the Agency herein contained, any obligation it may incur for the payment of money shall not subject the Agency to any pecuniary or other liability or create a debt of the State of New York or of The City of New York, and neither the State of New York nor The City of New York shall be liable on any obligation so incurred, but any such obligation shall be payable solely out of the lease rentals, revenues and receipts derived from or in connection with the Facility (Lot 23), including moneys received under the Lease):

Section 1. Definitions. The following defined terms in Section 1.1 of the Original Lease are hereby amended to read as follows (additional language is underscored and deleted language is in brackets, and the additional terms are added in appropriate alphabetical order):

“An **Affiliate** of a Person shall mean a Person which directly or indirectly through one or more intermediaries controls, or is under common control with, or is controlled by, such Person. The term “control” (including the related terms “controlled by” and “under common control with”) means (i) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, [and] or (ii) the ownership, either directly or indirectly, of at least 51% of the voting stock or other equity interest of such Person.

Agreement shall mean this Lease Agreement (Lot 23), dated as of May 1, 2001, between the Agency and the Original Lessee (Lot 23), as assigned by the Original Lessee (Lot 23) to the Lessee (Lot 23) pursuant to the Assignment and Assumption Agreement (Lot 23), and as amended by an Amendment to Lease Agreement (Lot 23) dated as of June 22, 2004 between the Agency and the Lessee (Lot 23), [between the Agency and the Lessee (Lot 23)], and shall include any and all further amendments hereof and supplements hereto hereafter made in conformity herewith.

Assignment and Assumption Agreement (Lot 20) shall mean the Assignment and Assumption Agreement (Lot 20), dated as of June 22, 2004, between the Original Lessee (Lot 20) and the Lessee (Lot 20), as consented to by the Agency, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Assignment and Assumption Agreement (Lot 21) shall mean the Assignment and Assumption Agreement (Lot 21), dated as of June 22, 2004, between the Original Lessee (Lot 21) and the Lessee (Lot 21), as consented to by the Agency, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Assignment and Assumption Agreement (Lot 22) shall mean the Assignment and Assumption Agreement (Lot 22), dated as of June 22, 2004, between the Original Lessee (Lot 22) and the Lessee (Lot 22), as consented to by the Agency, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Assignment and Assumption Agreement (Lot 23) shall mean the Assignment and Assumption Agreement (Lot 23), dated as of June 22, 2004, between the Original Lessee (Lot 23) and the Lessee (Lot 23), as consented to by the Agency, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Assignment and Assumption Agreement (Master Guaranty) shall mean the Assignment and Assumption Agreement (Master Guaranty), dated as of June 22, 2004, between IAC and the Master Guarantor, as consented to by the Agency, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Assignment and Assumption Date shall mean June 22, 2004.

City Deed shall mean the deed delivered on the Commencement Date to the Original Lessee (Lot 23) from the New York City Economic Development Corporation relating to the Project Land, as amended and modified by that certain Consent to Assignment, Estoppel and Amendment, dated as of June 22, 2004, by and among the New York City Economic Development Corporation, the Original Lessee (Lot 23), the Other Original Lessees, IAC, the Lessee (Lot 23) and the Other Lessees.

Deed (Lot 20) shall mean the Deed (Lot 20) from the Original Lessee (Lot 20) to the Agency.

Deed (Lot 21) shall mean the Deed (Lot 21) from the Original Lessee (Lot 21) to the Agency.

Deed (Lot 22) shall mean the Deed (Lot 22) from the Original Lessee (Lot 22) to the Agency.

Facility Lease (Lot 23) shall mean a lease or other right of occupancy granted or suffered by the Lessee (Lot 23) or the Original Lessee (Lot 23) to another Person with respect to all or any portion of the Facility (Lot 23).

Facility Tenant Employees shall mean an employee of a Facility Tenant who works at least 35 hours per week (subject to customary vacation, holiday and sick leave), provided that (i) such employee is located and employed exclusively to work at one of the Facilities, (ii) the income of such employee is paid or allocated primarily for the Facility Tenant's New York City-based payroll, and (iii) with respect to such employee, the Facility Tenant is responsible for the payment of unemployment insurance premiums and for reporting to the New York State Department of Labor such employee as a New York City-based employee of such Facility Tenant on Form NYS-45 or its equivalent. For purposes of calculating aggregate number of Facility Tenant Employees, two (2) part-time employees of a Facility Tenant who each work at least 20 hours per week (subject to customary vacation, holiday and sick leave) shall, if otherwise meeting the requirements of clauses (i) through (iii) of the immediately preceding sentence, be counted as one (1) Facility Tenant Employee. Notwithstanding the foregoing, the employees of any current or future Facility Tenants that are federal government agencies shall be deemed to be Facility Tenant Employees notwithstanding said Facility Tenant does not meet the requirements of clause (ii) or (iii) above, but subject, however, to the otherwise applicable requirement of hours per week worked.

First Mortgagee shall [have the meaning assigned to that term in the preambles of this Agreement] mean LaSalle Bank National Association, and shall include its successors and assigns.

Guaranty Agreement (Lot 20) shall mean the Guaranty Agreement (Lot 20), dated as of [even date herewith,] May 1, 2001, from the Original Lessee (Lot 20) to the Agency, as assigned by the Original Lessee (Lot 20) to the Lessee (Lot 20) pursuant to the Assignment and Assumption Agreement (Lot 20), and as amended by an Amendment to Guaranty Agreement (Lot 20), dated as of June 22, 2004, between the Lessee (Lot 20) and the Agency, and shall

include any and all further amendments thereof and supplements thereto hereafter made in conformity therewith.

Guaranty Agreement (Lot 21) shall mean the Guaranty Agreement (Lot 21), dated as of [even date herewith,] May 1, 2001, from the Original Lessee (Lot 21) to the Agency, as assigned by the Original Lessee (Lot 21) to the Lessee (Lot 21) pursuant to the Assignment and Assumption Agreement (Lot 21), and as amended by an Amendment to Guaranty Agreement (Lot 21), dated as of June 22, 2004, between the Lessee (Lot 21) and the Agency, and shall include any and all further amendments thereof and supplements thereto hereafter made in conformity therewith.

Guaranty Agreement (Lot 22) shall mean the Guaranty Agreement (Lot 22), dated as of [even date herewith,] May 1, 2001, from the Original Lessee (Lot 22) to the Agency, as assigned by the Original Lessee (Lot 22) to the Lessee (Lot 22) pursuant to the Assignment and Assumption Agreement (Lot 22), and as amended by an Amendment to Guaranty Agreement (Lot 22), dated as of June 22, 2004, between the Lessee (Lot 22) and the Agency, and shall include any and all further amendments thereof and supplements thereto hereafter made in conformity therewith.

Guaranty Agreement (Lot 23) shall mean the Guaranty Agreement (Lot 23), dated as of [even date herewith,] May 1, 2001, from the Original Lessee (Lot 23) to the Agency, as assigned by the Original Lessee (Lot 23) to the Lessee (Lot 23) pursuant to the Assignment and Assumption Agreement (Lot 23), and as amended by an Amendment to Guaranty Agreement (Lot 23), dated as of June 22, 2004, between the Lessee (Lot 23) and the Agency, and shall include any and all further amendments thereof and supplements thereto hereafter made in conformity therewith.

Independent Accountant shall mean an independent certified public accountant or firm of independent certified public accountants selected by the Lessee (Lot 23) or [IAC] the Master Guarantor and approved by the Agency (such approval not to be unreasonably withheld or delayed).

Lease Agreement (Lot 20) shall mean that certain Lease Agreement (Lot 20), dated as of [even date herewith,] May 1, 2001, between the Agency and the Original Lessee (Lot 20), as amended by letter agreement dated as of January 1, 2003 between the Agency and the Original Lessee (Lot 20), as assigned by the Original Lessee (Lot 20) to the Lessee (Lot 20) pursuant to the Assignment and Assumption Agreement (Lot 20), and as amended by an Amendment to Lease Agreement (Lot 20), dated as of June 22, 2004, between the Agency and the Lessee (Lot 20), [between the Lessee (Lot 20) and the Agency,] as the same may be further amended and supplemented in accordance with its terms.

Lease Agreement (Lot 21) shall mean that certain Lease Agreement (Lot 21), dated as of [even date herewith,] May 1, 2001, between the Agency and the Original Lessee (Lot 21), as amended by letter agreement dated as of January 1, 2003 between the Agency and the Original Lessee (Lot 21), as assigned by the Original Lessee (Lot 21) to the Lessee (Lot 21) pursuant to the Assignment and Assumption Agreement (Lot 21), and as amended by an Amendment to Lease Agreement (Lot 21), dated as of June 22, 2004, between the Agency and

the Lessee (Lot 21), [between the Lessee (Lot 21) and the Agency,] as the same may be further amended and supplemented in accordance with its terms.

Lease Agreement (Lot 22) shall mean that certain Lease Agreement (Lot 22), dated as of [even date herewith,] May 1, 2001, between the Agency and the Original Lessee (Lot 22), as assigned by the Original Lessee (Lot 22) to the Lessee (Lot 22) pursuant to the Assignment and Assumption Agreement (Lot 22), and as amended by an Amendment to Lease Agreement (Lot 22), dated as of June 22, 2004, between the Agency and the Lessee (Lot 22), [between the Lessee (Lot 22) and the Agency,] as the same may be further amended and supplemented in accordance with its terms.

Lessee (Lot 20) shall mean [IAC New York L.L.C.,] AMB Fund III New York, LLC, a Delaware limited liability company, and its permitted successors and assigns pursuant to Section 6.1 or 9.3 of the Lease Agreement (Lot 20).

Lessee (Lot 21) shall mean [IAC New York - II L.L.C.,] AMB Fund III New York II, LLC, a Delaware limited liability company, and its permitted successors and assigns pursuant to Section 6.1 or 9.3 of the Lease Agreement (Lot 21).

Lessee (Lot 22) shall mean [IAC New York - III L.L.C.,] AMB Institutional Alliance Fund III, LLC, a Delaware limited liability company, and its permitted successors and assigns pursuant to Section 6.1 or 9.3 of the Lease Agreement (Lot 22).

Lessee (Lot 23) shall mean [IAC New York - IV L.L.C.,] AMB Institutional Alliance Fund III, LLC, a Delaware limited liability company, and its permitted successors and assigns pursuant to Section 6.1 or 9.3 hereof.

Master Guarantor shall mean [International Airport Centers L.L.C.,] AMB Institutional Alliance Fund III, LLC, a Delaware limited liability company, and its permitted successors and assigns under the Master Guaranty Agreement.

Master Guaranty Agreement shall mean the Master Guaranty Agreement, dated as of [even date herewith,] May 1, 2001, from IAC to the Agency, as assigned by IAC to the Master Guarantor pursuant to the Assignment and Assumption Agreement (Master Guaranty), and as amended by an Amendment to Master Guaranty Agreement, dated as of June 22, 2004, between the Master Guarantor and the Agency, and shall include any and all further amendments thereof and supplements thereto hereafter made in conformity therewith.

Mortgage shall mean [the mortgages referred to in the recitals to this Agreement] that certain Consolidated and Amended and Restated Project and Acquisition Mortgage and Security Agreement, dated as of April 30, 2003, from the Original Lessee (Lot 22), the Original Lessee (Lot 23) and the Agency to the First Mortgagee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith, together with any Permitted Mortgages.

Mortgage Note shall mean[, collectively, the LaSalle Bank Note, the KeyBank Note and the Fleet National Bank Note referred to in the recitals to this Agreement] that certain

indebtedness of the Lessee (Lot 23) secured under the Mortgage, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity with the Mortgage.

Original Lessee (Lot 20) shall mean IAC New York L.L.C., a Delaware limited liability company.

Original Lessee (Lot 21) shall mean IAC New York - II L.L.C., a Delaware limited liability company.

Original Lessee (Lot 22) shall mean IAC New York - III L.L.C., a Delaware limited liability company.

Original Lessee (Lot 23) shall mean IAC New York - IV L.L.C., a Delaware limited liability company.

Other Lessees shall mean, collectively, the Lessee (Lot 20), the Lessee (Lot 21) or the Lessee (Lot 22).

Other Original Lessees shall mean, collectively, the Original Lessee (Lot 20), the Original Lessee (Lot 21) and the Original Lessee (Lot 22).

Other Sales Tax Letters shall mean, collectively, the Sales Tax Letters issued to the Other Original Lessees, the Lessee (Lot 22) and the Lessee (Lot 23).

Permitted Encumbrances shall mean:

(i) this Agreement, each Facility Lease (Lot 23), the City Deed, the Mortgage and any other Permitted Mortgages;

(ii) liens for real estate taxes, assessments, levies and other governmental charges, the payment of which is not yet due and payable;

(iii) any mechanic's, workmen's, repairmen's, materialmen's, contractors', carriers', suppliers' or vendors' Lien or right in respect thereof if payment is not yet due and payable, all if and to the extent permitted by Section 6.5 hereof;

(iv) any lien, security interest, encumbrance or charge, or any conditional sale or other title retention agreement, that any vendor of property or any contractor hired to perform work may place on or with respect to the Facility (Lot 23) or any part thereof;

(v) the Operation and Easement Agreement dated the Commencement Date by and among the Original Lessee (Lot 23) and the Other Original Lessees, and utility, access and other easements and rights-of-way, restrictions and exceptions that an Authorized Representative of the Lessee (Lot 23) certifies to the Agency will not materially interfere with or impair the use and enjoyment by the Lessee (Lot 23) and the Facility Tenants (Lot 23) of the Facility (Lot 23) as herein provided;

(vi) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as normally exist with respect to property similar in character to the Facility (Lot 23) as do not, as set forth in a certificate of an Authorized Representative of the Lessee (Lot 23) delivered to the Agency, either singly or in the aggregate, render title to the Facility (Lot 23) unmarketable or materially impair the property affected thereby for the purpose for which it was acquired and held by the Agency hereunder or purport to impose liabilities or obligations on the Agency;

(vii) those exceptions to title to the Facility (Lot 23) enumerated in the title insurance policy delivered pursuant to Section 2.3 hereof insuring the fee simple title of the Agency to the Facility (Lot 23), a copy of which is on file at the offices of the Agency; and

(viii) those restrictions and encumbrances to which the City Deed is subject at the time of its delivery.

Project Documents shall mean, collectively, this Agreement, the City Deed, the Deed (Lot 20), the Deed (Lot 21), the Deed (Lot 22), the Deed (Lot 23), the Facility Leases, the Lease Agreement (Lot 20), the Lease Agreement (Lot 21), the Lease Agreement (Lot 22), the Master Guaranty Agreement, the Project Support Agreement, the Guaranty Agreement (Lot 20), the Guaranty Agreement (Lot 21), the Guaranty Agreement (Lot 22), the Guaranty Agreement (Lot 23), the Mortgage Note, the Mortgage, the Sales Tax Letter (Lot 23) and the Other Sales Tax Letters.

Project Parent shall mean AMB Property, L.P., a limited partnership organized and existing under the laws of the State of Delaware, and its permitted successors and assigns under the Project Support Agreement.

Project Support Agreement shall mean the Project Support Agreement, dated as of June 22, 2004, from the Project Parent to the Agency, the same may be amended and supplemented in accordance with its terms.

Sales Tax Letter (Lot 23) shall mean, collectively, the Letter of Authorization for Sales Tax Exemption (Lot 23), dated the Commencement Date, [which] from the Agency [shall make available] to the Original Lessee (Lot 23), and the Amended and Restated Letter of Authorization for Sales Tax Exemption (Lot 23), dated June 22, 2004, from the Agency to the Lessee (Lot 23), in accordance with and substantially in the form set forth in the appendices to this Agreement, as each of the same may be amended or restated.

Sales Tax Savings shall mean all exemptions from Sales Taxes realized by the Original Lessee (Lot 23) and the Lessee (Lot 23) pursuant to the Sales Tax Letter (Lot 23) by reason of the Agency's interest in the Facility (Lot 23) or any part thereof and the provisions of Section 874 of the New York State General Municipal Law and Section 1115 of the New York State Tax Law."

Section 2. Representations and Warranties by Agency. The Agency represents and warrants that by proper action of its board of directors, the Agency has duly authorized the execution and delivery of this Amendment to Lease.

Section 3. Representations and Warranties by the Lessee (Lot 23). The Lessee (Lot 23) makes the following representations and warranties:

(a) The Lessee (Lot 23) is a limited liability company duly organized and validly existing under the laws of the State of Delaware and is in good standing under the laws of the State of New York, is not in violation of any provision of its certificate of formation or its operating agreement, has the power and authority to own its property and assets, to carry on its business as now being conducted by it and to execute, deliver and perform this Amendment to Lease and the Assignment and Assumption Agreement (Lot 23).

(b) The execution, delivery and performance of this Amendment to Lease and the Assignment and Assumption Agreement (Lot 23) and the consummation of the transactions herein and therein contemplated will not violate any provision of law, any order of any court or agency of government, or the certificate of formation or operating agreement of the Lessee (Lot 23), or any indenture, agreement or other instrument to which the Lessee (Lot 23) is a party or by which it or any of its property is subject to or bound, or be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument or result in the imposition of any lien, charge or encumbrance of any nature whatsoever other than Permitted Encumbrances. Performance of this Amendment to Lease by the Lessee (Lot 23) may be limited by bankruptcy, moratorium or insolvency or other laws affecting creditors' rights generally and is subject to general rules of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(c) There is no action or proceeding pending or, to the best of the knowledge of the Lessee (Lot 23), after diligent inquiry, threatened by or against the Lessee (Lot 23) by or before any court or administrative agency that would adversely affect the ability of the Lessee (Lot 23) to perform its obligations under this Amendment to Lease or the Assignment and Assumption Agreement (Lot 23) and all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by the Lessee (Lot 23) as of the date hereof in connection with the execution and delivery of this Amendment to Lease and the Assignment or Assumption Agreement (Lot 23) or in connection with the performance of the obligations of the Lessee (Lot 23) hereunder or thereunder have been obtained .

(d) This Amendment to Lease and the Assignment and Assumption Agreement (Lot 23) each constitutes the legal, valid and binding obligation of the Lessee (Lot 23) enforceable against the Lessee (Lot 23) in accordance with its respective terms, except as may be limited by bankruptcy, moratorium or insolvency or other laws affecting creditors' rights generally and is subject to general rules of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(e) The Lessee (Lot 23) is the landlord under each Facility Lease (Lot 23), if any.

(f) Neither the Lessee (Lot 23) nor any Affiliate thereof is a Prohibited Person.

Section 4. Section 2.3 of the Original Lease is hereby amended to read as follows (additional language is underscored and deleted language is in brackets):

“**Section 2.3 Title Insurance.** On or prior to the Commencement Date, the Original Lessee (Lot 23) will obtain and deliver to the Agency (a) a fee title insurance policy in an amount not less than \$250,000 insuring the Agency’s fee simple interest in each of the Land (Lot 23) and the Improvements (Lot 23) against loss as a result of defects in title, subject only to Permitted Encumbrances, and (b) a current survey of each of the Land (Lot 23) and the Improvements (Lot 23) certified to the Original Lessee (Lot 23), the title company issuing such title insurance policy and the Agency. Any proceeds of such fee title insurance shall be paid to the Lessee (Lot 23) and applied by the Lessee (Lot 23) to remedy the applicable defect in title in respect of which such proceeds shall be derived. If not so capable of being applied or if a balance remains after such application, the proceeds or the remaining balance of proceeds, as the case may be, derived from any such title insurance policy insuring the Agency’s fee title interest shall be applied to the payment of any Rental Payments due hereunder; and any balance thereafter may be used by the Lessee (Lot 23) for any corporate purpose.”

Section 5. Section 2.4 of the Original Lease is hereby amended to read as follows (additional language is underscored and deleted language is in brackets):

“**Section 2.4 Limitation on Sales Tax Exemption.** (a) Any exemption from Sales Taxes resulting from or occasioned by the Agency’s involvement with the Project (Lot 23) shall be limited to purchases of Exempt Property effected by the Original Lessee (Lot 23) or the Lessee (Lot 23) as agent for the Agency, it being the intent of the parties that no operating expenses of the Original Lessee (Lot 23) or of the Lessee (Lot 23) and no purchases of equipment or other personal property (other than Exempt Property) shall be subject to an exemption from Sales Taxes because of the Agency’s involvement with the Project (Lot 23).

(b) The Original Lessee (Lot 23) covenants and agrees that it shall include the following language (through an attached rider or otherwise) in and as part of each contract, invoice, bill or purchase order entered into by the Original Lessee (Lot 23) as agent for the Agency for which Sales Tax Savings are being sought in connection with the Project (Lot 23):

‘This [contract, invoice, bill or purchase order] is being entered into by IAC New York-III L.L.C., a Delaware limited liability company (the “Agent”), as agent for and on behalf of the New York City Industrial Development Agency (the “Agency”) in connection with a certain project

of the Agency for the Agent consisting of the acquisition of a 7.386 acre parcel of land and the construction thereon of a building of approximately 141,782 square feet, all for the leasing thereof to one or more tenants for use in the warehousing and distribution of air cargo and the intermodal transportation industry and ancillary office uses and other ancillary commercial uses related thereto, to be located on 230-79 International Airport Center Boulevard, Jamaica, New York (the "Project (Lot 23)"). The building materials and fixtures (excluding trade fixtures) to be used for the Project (Lot 23) which is the subject of this [contract, agreement, invoice, bill or purchase order] shall be exempt from the sales and use tax levied by the State of New York and The City of New York if effected in accordance with the terms and conditions set forth in the attached Sales Tax Letter of the Agency, and the Agent hereby represents that this [contract, agreement, invoice, bill or purchase order] is in compliance with the terms of the Sales Tax Letter. This [contract, agreement, invoice, bill or purchase order] is nonrecourse to the Agency, and the Agency shall not be directly or indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever, and the Agent shall be the sole party liable hereunder. By execution or acceptance of this [contract, agreement, invoice, bill or purchase order], the [vendor or contractor] hereby acknowledges and agrees to the terms and conditions set forth in this paragraph.'

The Lessee (Lot 23) covenants and agrees that it shall include the following language (through an attached rider or otherwise) in and as part of each contract, invoice, bill or purchase order entered into by the Lessee (Lot 23) as agent for the Agency for which Sales Tax Savings are being sought in connection with the Project (Lot 23):

'This [contract, invoice, bill or purchase order] is being entered into by AMB Institutional Alliance Fund III, LLC, a Delaware limited liability company (the "Agent"), as agent for and on behalf of the New York City Industrial Development Agency (the "Agency") in connection with a certain project of the Agency for the Agent consisting of the acquisition of a 7.386 acre parcel of land and the construction thereon of a building of approximately 141,782 square feet, all for the leasing thereof to one or more tenants for use in the warehousing and distribution of air cargo and the intermodal transportation industry and ancillary office uses and other ancillary commercial uses related thereto, to be located on 230-79 International

Airport Center Boulevard, Jamaica, New York (the "Project (Lot 23)"). The building materials and fixtures (excluding trade fixtures) to be used for the Project (Lot 23) which is the subject of this [contract, agreement, invoice, bill or purchase order] shall be exempt from the sales and use tax levied by the State of New York and The City of New York if effected in accordance with the terms and conditions set forth in the attached Sales Tax Letter of the Agency, and the Agent hereby represents that this [contract, agreement, invoice, bill or purchase order] is in compliance with the terms of the Sales Tax Letter. This [contract, agreement, invoice, bill or purchase order] is nonrecourse to the Agency, and the Agency shall not be directly or indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever, and the Agent shall be the sole party liable hereunder. By execution or acceptance of this [contract, agreement, invoice, bill or purchase order], the [vendor or contractor] hereby acknowledges and agrees to the terms and conditions set forth in this paragraph.'

If the Original Lessee (Lot 23) or the Lessee (Lot 23) shall fail to include, incorporate by reference or otherwise cause the contract, agreement, invoice, bill or purchase order to be, together with the vendor or contractor, subject to the above applicable language in substantially the above form, such contract, agreement, invoice, bill or purchase order shall not be an undertaking on behalf of the Agency and shall not be entitled to any of the benefits able to be conferred by the Agency, and neither the Original Lessee (Lot 23) nor the Lessee (Lot 23) shall [not] claim any sales or use tax benefits or exemptions with respect to any such contract, agreement, invoice, bill or purchase order and the Lessee (Lot 23) shall return to the Agency any such benefits or exemptions so taken, together with interest on such amount at the rate of eighteen percent (18%) per annum, from the date of such taking.

(c) On the Commencement Date, the Agency shall make available to the Original Lessee (Lot 23) the Sales Tax Letter (Lot 23). On the Assignment and Assumption Date, the Original Lessee (Lot 23) shall surrender to the Agency for cancellation the Sales Tax Letter (Lot 23) issued to the Original Lessee (Lot 23), and the Agency shall issue a new Sales Tax Letter (Lot 23) to the Lessee (Lot 23). The Agency, at the sole cost and expense of the Lessee (Lot 23), shall also execute such other authorizations, letters and documents (and such amendments to the Sales Tax Letter (Lot 23)) as may be reasonably necessary to permit the Original Lessee (Lot 23) or the Lessee (Lot 23) to obtain the intended benefits hereunder. Subject to the terms of this Agreement, it is intended that the aggregate scope of the sales and use tax benefits received by the Original Lessee (Lot 23) and the Lessee (Lot 23) pursuant to this Agreement and the Sales Tax Letter (Lot 23) shall be limited in both duration and amount as follows:

(i) The Sales Tax Letter (Lot 23) shall be dated the Commencement Date and shall be effective for a term commencing on its date and expiring upon the earliest of (1) the termination of this Agreement, (2) December 31, 2004, (3) the completion of the Project (Lot 23) as provided in Section 2.2 hereof, (4) the termination of the Sales Tax Letter (Lot 23) pursuant to Section 7.2 hereof, and (5) the realization by the Original Lessee (Lot 23), the Other Original Lessees, the Lessee (Lot 22) and the Lessee (Lot 23) of the Maximum Sales Tax Savings in the aggregate pursuant to the Sales Tax Letters with respect to the Overall Project.

(ii) The authorizations set forth in the Sales Tax Letter (Lot 23) shall automatically be suspended twenty (20) days after notice to the Lessee (Lot 23) that the Lessee (Lot 23), any Other Lessee, the Master Guarantor or the Project Parent [or IAC] shall be in default under this Agreement or any other Project Document until the Lessee (Lot 23), such Other Lessee or the Master Guarantor [or IAC] shall pay any amounts due, and perform all of its obligations, with respect to any such default.

(iii) The sales and use tax exemption to be provided pursuant to the Sales Tax Letter (Lot 23)

(A) shall not be available for payment of any costs, other than the costs of the Exempt Property, or for any items of personalty,

(B) shall only be utilized for items of Exempt Property which shall be purchased, completed or installed for use only by the Original Lessee (Lot 23), the Lessee (Lot 23) and Facility Tenants (Lot 23) at the Facility (Lot 23) (and not with any intention to sell, transfer or otherwise dispose of any such items of Exempt Property to a Person as shall not constitute the Original Lessee (Lot 23) or the Lessee (Lot 23)), it being the intention of the Agency and the Lessee (Lot 23) that the sales and use tax exemption shall not be made available with respect to any item of Exempt Property unless such item is used solely by the Original Lessee (Lot 23), the Lessee (Lot 23) and Facility Tenants (Lot 23) at the Facility (Lot 23),

(C) shall not be available for any date subsequent to which the Sales Tax Letter (Lot 23) shall have been suspended as provided in Section 2.4(c)(ii) hereof; provided, however, that in the event the Lessee (Lot 23) shall thereafter cure any defaults under this Agreement or any other Project Document, or the Agency shall thereafter waive such suspension, as applicable, the sales and use tax exemption shall again continue from the date of such cure or such waiver,

(D) shall not be available for or with respect to any item of rolling stock or water craft, or tangible personal property having a useful life of less than one year, and shall be available only if purchased by the Original Lessee (Lot 23) or the Lessee (Lot 23) as agent for the Agency for use by the Original Lessee (Lot 23), the Lessee (Lot 23) and Facility Tenants (Lot 23) for incorporation within the Facility (Lot 23),

(E) shall not be available for any tangible movable personal property or trade fixtures,

(F) shall not be available for any item the acquisition or leasing of which would otherwise be exempt from Sales Taxes absent the involvement by the Agency,

(G) shall not be available for any cost of utilities, cleaning service or supplies,

(H) shall not be available subsequent to the termination of this Agreement, and

(I) shall only be available for those costs set forth in Exhibit A to the Sales Tax Letter.

(iv) In the event that the Original Lessee (Lot 23) or the Lessee (Lot 23) shall utilize the sales or use tax exemption authorization provided pursuant to the Sales Tax Letter (Lot 23) in violation of the provisions of Section 2.4(c)(iii) hereof, the Lessee (Lot 23) shall promptly deliver notice of same to the Agency, and the Lessee (Lot 23) shall, upon demand by the Agency, pay to the Agency a return of sales or use tax exemptions in an amount equal to all such unauthorized sales or use tax exemptions together with interest at the rate of eighteen percent (18%) per annum from the date and with respect to the dollar amount for which each such unauthorized sales or use tax exemption was availed of by the Original Lessee (Lot 23) or the Lessee (Lot 23).

(v) Upon request by the Agency of, and reasonable notice to the Lessee (Lot 23), the Lessee (Lot 23) shall make available at reasonable times to the Agency and the Independent Accountant all such books and records of the Lessee (Lot 23) and of the Original Lessee (Lot 23) and require all appropriate officers and employees of the Lessee (Lot 23) and of the Original Lessee (Lot 23), to respond to reasonable inquiries by the Agency and the Independent Accountant, as shall be necessary to indicate in reasonable detail those costs for which the Original Lessee (Lot 23) or the Lessee (Lot 23) shall have utilized the Sales Tax Letter (Lot 23) and the dates and amounts so utilized.

(d) The Original Lessee (Lot 23) shall observe and comply with the terms and conditions of the Sales Tax Letter (Lot 23), and upon the termination, expiration or cancellation of the Sales Tax Letter (Lot 23), the Lessee (Lot 23) shall promptly surrender the same to the Agency.

(e) If and for so long as the same shall be required by law, the Original Lessee (Lot 23) and the Lessee (Lot 23) shall annually (currently, by each February 15 with respect to the prior calendar year) file or cause to be filed a statement (Form ST-340, attached hereto as Exhibit C, or any successor or additional mandated form) with the New York State Department of Taxation and Finance, on a form and in a manner and consistent with such regulations as is or may be prescribed by the Commissioner of the New York State Department of Taxation and Finance, of the value of all sales and use tax exemptions claimed by the Original Lessee (Lot 23) or the Lessee (Lot 23) or agents of the Original Lessee (Lot 23) or the Lessee (Lot 23) in connection with the Project (Lot 23) and the Facility (Lot 23) as required by Section 874(8) of the New York State General Municipal Law (as the same may be amended from time to time), including, but not limited to, consultants or subcontractors of such agents, under the authority granted pursuant to this Agreement. The Lessee (Lot 23) shall furnish or cause to be furnished a copy of such annual statement to the Agency at the time of filing with the Department of Taxation and Finance. Should the Lessee (Lot 23) fail to comply with the foregoing requirement, the Original Lessee (Lot 23) and the Lessee (Lot 23) shall immediately cease to be the agent for the Agency in connection with the Project (Lot 23) (such agency relationship being deemed to be immediately revoked) without any further action of the parties (subject to any rights of the Original Lessee (Lot 23) or the Lessee (Lot 23) under applicable law to cure the revocation of its agent status), the Original Lessee (Lot 23) and the Lessee (Lot 23) shall each be deemed to have automatically lost its authority as agent of the Agency to purchase and/or lease Exempt Property in the Agency's behalf, and shall desist immediately from all such activity, and shall immediately and upon demand return to the Agency the Sales Tax Letter (Lot 23) issued to the Lessee (Lot 23) by the Agency which is in the Lessee (Lot 23)'s possession or in the possession of any agent of the Lessee (Lot 23). Nothing herein shall be construed as a representation by the Agency that any property acquired as part of the Project (Lot 23) is or shall be exempt from sales taxes or use taxes under the laws of the State.

(f) The Lessee (Lot 23) agrees to submit or cause to be submitted to the Agency on August 1 of each year a completed Benefits Report in the form of Schedule B attached hereto to the extent that the Original Lessee (Lot 23) or the Lessee (Lot 23) shall have received Sales Tax Savings during the twelve month period ending on the June 30 immediately preceding such August 1.

(g) The Agency acknowledges that the Lessee (Lot 23) may utilize the Original Lessee (Lot 23) as an agent of the Lessee (Lot 23) for the purposes of completing the Project (Lot 23)."

Section 6. Section 4.3(d) of the Original Lease is hereby amended to read as follows (additional language is underscored and deleted language is in brackets):

“(d) Payments in Lieu of Taxes on the Project Land:

For the period commencing on the PILOT Commencement Date and terminating on the earliest to occur of (i) June 30, 2027 (the “PILOT Expiration Date”), or (ii) the date on which the Agency no longer owns the Facility (Lot 23) Realty, or (iii) the date on which this Agreement is terminated if termination occurs prior to the PILOT Expiration Date (such earliest date to be hereinafter referred to as the “PILOT Termination Date”), the Lessee (Lot 23) shall, in accordance with Section 4.3(g) hereof, make payments in lieu of real estate taxes, in accordance with Section 4.3(g) hereof, with respect to the Project Land (inclusive of the Land (Lot 23)) (subject to Section 4.3(i) hereof) only to the extent that (y) Full Project Land Taxes in the respective tax fiscal year of the City shall exceed the following, and (z) amounts shall not be paid by the Other Lessees for such purpose under the Remaining Lease Agreements:

YEAR	MAXIMUM LAND TAX ABATEMENT
July 1, 2002 - June 30, 2005	\$555,000
July 1, 2005 - June 30, 2023	Adjusted Land Tax Abatement
July 1, 2023 - June 30, 2024	Adjusted Land Tax Abatement x 80%
July 1, 2024 - June 30, 2025	Adjusted Land Tax Abatement x 60%
July 1, 2025 - June 30, 2026	Adjusted Land Tax Abatement x 40%
July 1, 2026 - June 30, 2027	Adjusted Land Tax Abatement x 20%

Adjusted Land Tax Abatement shall mean the lesser of :
 (i) \$620,000; and (ii) the product of \$500 and the Annual Average Number of Facility Tenant Employees (hereinbelow defined) for the twelve month period (or lesser period as set forth in the next paragraph) expiring on May 31, [2005] 2006.

Annual Average Number of Facility Tenant Employees shall mean, for the 12 month period commencing on June 1, 2005 and ending on May 31, 2006, the annual average number of Facility Tenant Employees determined by dividing (i) the sum of the average number of Facility Tenant Employees with respect to the Overall Project employed on the last payroll date of each month during such 12-month period, by (ii) twelve (12). In the event that the Overall Project is not completed prior to June 1, [2005] 2006 in order for the Facilities to be occupied by Facility Tenants for the entire twelve (12)-month period ending May 31, [2005] 2006, then, the “Annual Average Number of Facility Tenant Employees” shall be determined by dividing (1) the sum of the average number of Facility Tenant Employees employed on the last payroll date of each month

during such period, by (2) the number of months in such period (but not less than 6 months).

City Tax Fiscal Year shall mean each annual period commencing on July 1, and ending on the immediately succeeding June 30, or such other annual period as shall be established by lawful authority as the City's "tax fiscal year" or its equivalent.

Full Project Land Taxes shall mean that amount of taxes with respect to the Project Land (including the Land (Lot 23)) constituting part of the Facilities as the Lessees would otherwise be required to pay from time to time if any were the owner of the Project Land.

The Lessee (Lot 23) shall deliver to the Agency, by no later than June 15, 2006, a certificate of an Authorized Representative of the Lessee (Lot 23) certifying as to the Annual Average Number of Facility Tenant Employees, both in the aggregate and on a per Facility basis (the "Facility Tenant Employee Certificate"). Any failure of the Lessee (Lot 23) to deliver the Facility Tenant Employee Certificate by July 1, 2006 (or such later date to which the Agency shall consent) shall be a default under this Agreement.

It is acknowledged by the Agency and the Lessee (Lot 23) that the land tax abatements to be provided to the Lessees assume that all four (4) Facilities will continue to be owned by the Agency and subject to this Agreement and the Remaining Lease Agreements. In the event, however, that one or more of the Facilities shall cease to be owned by the Agency (and thereby no longer subject to a Remaining Lease Agreement, the "Removed Facility") during the term of this Agreement, then the Adjusted Land Tax Abatement shall thereafter be permanently reduced by a fraction the numerator of which shall be the number of Facility Tenant Employees attributable to the Removed Facility as set forth in the Facility Tenant Employee Certificate, and the denominator of which shall be the Annual Average Number of Facility Tenant Employees set forth in such Certificate.

For the period commencing on the PILOT Expiration Date until the date on which the Agency no longer owns the Facility (Lot 23), the Lessee (Lot 23) shall make payments in lieu of real estate taxes equal to Full Project Land Taxes with respect to the Project Land, less any amounts paid with respect thereto by the Other Lessees.

If the PILOT Termination Date has occurred for reasons other than the Agency no longer being in title to the Project Land, for the period commencing on such PILOT Termination Date until the date on which the Agency no longer has title to the Project Land, the Lessee (Lot 23) shall make payments in lieu of real estate taxes on the Project Land equal to Full Project Land Taxes, less any amounts paid with respect thereto by the Other Lessees."

Section 7. Section 4.5(a)(i) and (iii) of the Original Lease is hereby amended to read as follows (additional language is underscored and deleted language is in brackets):

“(i) During any period of construction, renovation, improvement or reconstruction of the Facility (Lot 23) to the extent not covered by the public liability insurance referred to below, Owners & Contractors Liability insurance for the benefit of the Lessee (Lot 23) and the Agency in a minimum amount of [~~\$25,000,000~~] \$50,000,000 aggregate coverage for personal injury and property damage;

(ii)(A) Property damage insurance and (B) during any period of construction, renovation, improvement or reconstruction of the Facility (Lot 23), Builders’ All Risk insurance, whether by endorsement or otherwise, written on 100% builders’ risk completed value, non reporting form including coverage therein for completion and/or premises occupancy, all of which insurance shall in each case include coverage for removal of debris, insuring the buildings, structures, facilities, machinery, equipment, fixtures and other property constituting a part of the Facility (Lot 23) against loss or damage to the Facility (Lot 23) by fire, lightning, vandalism, malicious mischief and other casualties, with standard extended coverage endorsement covering perils of windstorm, hail, explosion, aircraft, vehicles and smoke (except as limited in the standard form of extended coverage endorsement at the time in use in the State) at all times in an amount such that the proceeds of such insurance shall be sufficient to prevent the Lessee (Lot 23) and the Agency from becoming a co insurer of any loss under the insurance policies but in any event in amounts equal to not less than 80% of the actual replacement value of the Facility (Lot 23) as determined by a qualified insurance appraiser or insurer (selected by the Lessee (Lot 23) and approved by the Agency) not less often than once every year, at the expense of the Lessee (Lot 23); any such insurance may provide that the insurer is not liable to the extent of the first \$100,000 with the result that the Lessee (Lot 23) is its own insurer to the extent of \$100,000 of such risks;

(iii) Public liability insurance in accordance with customary insurance practices for similar operations with respect to the Facility (Lot 23) and the business thereby conducted in a minimum amount of [~~\$25,000,000~~] \$50,000,000, which insurance (A) will also provide coverage of (y) the indemnity obligations of the Master Guarantor under Section 3.1 of the Master Guaranty Agreement (other than the liability pursuant to Section 3.1(a)(i) and (v) thereof, and with respect to Section 3.1(c) thereof, only to the extent such insurance is reasonably available), and (z) the indemnity obligations of the Lessee (Lot 23) under Section 6.2 hereof (other than the liability pursuant to Section 6.2(a)(i) and (v) hereof, and with respect to Section 6.2(c) hereof, only to the extent such insurance is reasonably available), (B) may be effected under overall blanket or excess coverage policies of the Lessee (Lot 23) or any Affiliate, provided, however, that at least \$500,000 is effected by a comprehensive liability insurance policy, and (C) shall not contain provisions for a deductible amount;”

Section 8. The last paragraph of Section 6.1 of the Original Lease is hereby amended to read as follows and an additional paragraph is added after the two paragraphs of Section 6.1 (additional language is underscored and deleted language is bracketed):

“The Lessee (Lot 23) further represents, covenants and agrees that it is and throughout the term of this Agreement will (x) continue to be either the Master Guarantor or an Affiliate of [IAC] the Master Guarantor, (y) continue to be duly qualified to do business in the State and that any company succeeding to its rights under this Agreement shall be and continue to be duly qualified to do business in the State, and (z) not constitute a Prohibited Person.

Notwithstanding the above two paragraphs, no consent of the Agency shall be required in connection with the conversion by the Master Guarantor or the Lessee (Lot 23) from a Delaware limited liability company to a Delaware limited partnership (the “New LP”) so long as:

(i) to the extent that such conversion shall constitute a transaction of the type described in the first paragraph of this Section 6.1, the conditions (other than the consent of the Agency) set forth therefor in the first two paragraphs of this Section 6.1 shall be met on or prior to such conversion, and

(ii) AMB Property, L.P., a Delaware limited partnership and the Project Parent, (x) is the sole general partner of the New LP, (y) owns not less than a twenty percent (20%) ownership interest in the New LP, and (z) retains managing control of the New LP.”

Section 9. Section 6.2 of the Original Lease is hereby amended to read as follows (additional language is underscored and deleted language is bracketed):

“**Section 6.2 Indemnity.** (a) The Lessee (Lot 23) shall at all times protect and hold the Agency, and any director, member, officer, employee, servant or agent thereof and persons under the Agency’s control or supervision, and the PILOT Depository (collectively, the “Indemnified Parties” and each an “Indemnified Party”) harmless of, from and against any and all claims (whether in tort, contract or otherwise), demands, expenses (including, without limitation, attorney’s fees and court costs) and liabilities for losses, damage, injury and liability of every kind and nature and however caused, and taxes (of any kind and by whomsoever imposed), other than, with respect to each Indemnified Party, losses arising from the gross negligence or willful misconduct of such Indemnified Party, arising upon or about the Facility (Lot 23) or resulting from, arising out of, or in any way connected with (i) the financing of the costs of the Facility (Lot 23) and the participation of the Agency, the Original Lessee (Lot 23) and the PILOT Depository in the transactions contemplated by this Agreement and the other Project Documents to which the Lessee (Lot 23) shall be a party, (ii) the planning, design, acquisition, site preparation, construction, renovation, equipping, installation or completion of the Project (Lot 23) or any part thereof or the effecting of any work done in or about the Facility (Lot 23), (iii) any defects

(whether latent or patent) in the Facility (Lot 23), (iv) the maintenance, repair, replacement, restoration, rebuilding, upkeep, use, occupancy, ownership, leasing, subletting or operation of the Facility (Lot 23) or any portion thereof, or (v) the execution and delivery by the Agency or the Lessee (Lot 23) of, or performance by the Indemnified Parties, the Original Lessee (Lot 23) or the Lessee (Lot 23), as the case may be, of, any of their respective obligations under, this Agreement or any other Project Document to which the Lessee (Lot 23) is a party or any other document or instrument delivered by the Lessee (Lot 23) in connection herewith or therewith or the enforcement of any of their terms hereof or thereof or the transactions contemplated hereby or thereby. No Indemnified Party shall be liable for any damage or injury to the person or property of the Lessee (Lot 23), the Original Lessee (Lot 23), any Facility Tenant (Lot 23), IAC or the Master Guarantor or their respective directors, officers, managers, partners, members, employees, agents or servants or persons under the control or supervision of the Lessee (Lot 23), the Original Lessee (Lot 23), any Facility Tenant (Lot 23), the Master Guarantor, IAC or any other Person who may be involved with the Facility (Lot 23) due to any act or negligence of any Person other than for the gross negligence or willful misconduct of such Indemnified Party.

(b) The Lessee (Lot 23) releases each Indemnified Party from, and agrees that no Indemnified Party shall be liable for and agrees to indemnify and hold each Indemnified Party harmless against any expense, loss, damage, injury or liability incurred because of any lawsuit commenced as a result of action taken by such Indemnified Party with respect to any of the matters set forth in subdivision (i) through (v) of Section 6.2(a) hereof or at the direction of a Lessee, an Original Lessee (but only to the extent that such direction is given on or before June 22, 2004), IAC (but only to the extent that such direction is given on or before June 22, 2004) or the Master Guarantor with respect to any of such matters above referred to, except those arising out of the gross negligence or willful misconduct of such Indemnified Party. An Indemnified Party, shall promptly notify the Lessee (Lot 23) in writing of any claim or action brought against such Indemnified Party in which indemnity may be sought against the Lessee (Lot 23) pursuant to this Section 6.2; such notice shall be given in sufficient time to allow the Lessee (Lot 23) to defend or participate in such claim or action, but the failure to give such notice in sufficient time shall not constitute a defense hereunder nor in any way impair the obligations of the Lessee (Lot 23) under this Section 6.2.

(c) In addition to and without limitation of all other representations, warranties and covenants made by the Lessee (Lot 23) under this Agreement, the Lessee (Lot 23) further represents, warrants and covenants that the Lessee (Lot 23) has not used Hazardous Materials (as defined hereinafter) on, from, or affecting the Facility (Lot 23) in any manner which violates Legal Requirements governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, and that, to the best knowledge of the Lessee (Lot 23) and based on information included in the Environmental Assessment Statement prepared by AKRF, Inc. dated December, 1998, which included a review of a Phase II prepared by H2M Group

in 1992, a true and complete copy of which the Original Lessee (Lot 23) has delivered to the Agency (the "Audit"), the Project Land was listed on the State List of Inactive Hazardous Waste Sites (the "State List") by the New York State Department of Environmental Conservation ("DEC") due to the use of the Project Land for the dumping of Hazardous Materials from 1970-1972; and the DEC de-listed the Project Land from the State List in 1992. The Lessee (Lot 23) shall, to the extent required by applicable law, keep or cause the Facility (Lot 23) to be kept free of Hazardous Materials. Without limiting the foregoing, the Lessee (Lot 23) shall not cause or permit the Facility (Lot 23) or any part thereof to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all applicable Legal Requirements, nor shall the Lessee (Lot 23) cause or permit, as a result of any intentional or unintentional act or omission on the part of the Lessee (Lot 23) or any tenant or subtenant, a release of Hazardous Materials onto the Facility (Lot 23) or onto any other property. The Lessee (Lot 23) shall comply with and ensure compliance by all tenants and subtenants (including all Facility Tenants (Lot 23)) with all applicable Legal Requirements whenever and by whomever triggered, and shall obtain and comply with, and ensure that all tenants and subtenants (including all Facility Tenants (Lot 23)) obtain and comply with, any and all approvals, registrations or permits required thereunder. The Lessee (Lot 23) shall (i) conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions required by applicable law to clean up and remove all Hazardous Materials, on, from, or affecting the Facility (Lot 23) (x) in accordance with all applicable Legal Requirements, (y) to the reasonable satisfaction of the Agency, and (z) in accordance with the orders and directives of all Federal, state and local governmental authorities, and (ii) defend, indemnify, and hold harmless each Indemnified Party from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (w) the presence, disposal, release, or threatened release of any Hazardous Materials which are on, from, or affecting the Facility (Lot 23); (x) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; (y) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials; and/or (z) any violation of any Legal Requirements, or any policies or requirements of the Agency, which are based upon or in any way related to such Hazardous Materials including, without limitation, reasonable attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses. For purposes of this paragraph, "Hazardous Materials" includes, without limit, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. §§ 5101 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), and in the regulations adopted and publications

promulgated pursuant thereto, or any other Federal, state or local environmental law, ordinance, rule, or regulation. The provisions of this paragraph shall be in addition to any and all other obligations and liabilities the Lessee (Lot 23) may have to any Indemnified Party at common law, and shall survive the termination of this Agreement.

The parties hereto agree that the reference in this Section 6.2(c) to the Audit is not intended, and should not be deemed to intend, to modify, qualify, reduce or diminish the obligations of the Lessee (Lot 23) to carry out and perform all of the covenants stated in Section 4.6 hereof and throughout this Section 6.2, including but not limited to, those covenants wherein the Lessee (Lot 23) is obligated to indemnify each Indemnified Party and comply with all Legal Requirements pertaining to Hazardous Materials.

(d) The indemnifications and protections set forth in this Section 6.2 shall be extended to the members, directors, officers, employees, agents and servants and persons under the control or supervision of each Indemnified Party.

(e) To effectuate the purposes of this Section 6.2, the Lessee (Lot 23) will provide for and insure, in the public liability policies required in Section 4.5 hereof, not only its own liability in respect of the matters therein mentioned, but also (y) the liability of the Master Guarantor pursuant to Section 3.1 of the Master Guaranty Agreement (other than the liability pursuant to Section 3.1 (a)(i) and (v) hereof, and with respect to Section 3.1(c) hereof, only to the extent such insurance is reasonably available), and (z) the liability pursuant to this Section 6.2 (other than the liability pursuant to Section 6.2(a)(i) and (v) hereof, and with respect to Section 6.2(c) hereof, only to the extent such insurance is reasonably available). Anything to the contrary in this Agreement notwithstanding, the covenants of the Lessee (Lot 23) contained in this Section 6.2 shall remain in full force and effect after the termination of this Agreement until the later of (i) the expiration of the period stated in the applicable statute of limitations during which a claim or cause of action may be brought and (ii) payment in full or the satisfaction of such claim or cause of action and of all expenses and charges incurred by the Agency relating to the enforcement of the provisions herein specified.

(f) For the purposes of this Section 6.2, the Lessee (Lot 23) shall not be deemed an employee, agent or servant of the Agency or a person under the Agency's control or supervision."

Section 10. Section 6.8(a) of the Original Lease is hereby amended to read as follows (additional language is underscored and deleted language is bracketed):

"Section 6.8 Financial Statements; No-Default Certificates.

(a) Upon request of the Agency, the Lessee (Lot 23) shall deliver or cause to be delivered to the Agency, a copy of the most recent annual audited financial

statements of [IAC] the Master Guarantor and of the Project Parent (including balance sheets as of the end of such fiscal year and the related statement of revenues, expenses and changes in fund balances and, if applicable, income, earnings, and changes in financial position) for such fiscal year, prepared in accordance with sound accounting principles consistently applied, certified by an Independent Accountant. The Agency agrees to treat any financial statements of [IAC] the Master Guarantor and of the Project Parent as confidential information to the extent permitted by law, and not to divulge such information except (y) to a City official or City agency upon request for same, provided that any such financial statements of [IAC] the Master Guarantor and of the Project Parent so delivered shall be accompanied by a statement by the Agency that the Agency received and holds such financial statements as confidential information, or (z) as required by law.”

Section 11. Section 7.1 of the Original Lease is hereby amended to read as follows (additional language is underscored and deleted language is bracketed):

“**Section 7.1 Events of Default.** Any one or more of the following events shall constitute an “Event of Default” hereunder:

(a) Failure of the Lessee (Lot 23) to pay when due any Rental Payment, and continuance of such failure for a period of fifteen (15) days after receipt by the Lessee (Lot 23) of written notice specifying the nature of such default from the Agency;

(b)(i) Failure of the Lessee (Lot 23) to observe and perform any covenant, condition or agreement on its part to be performed under Sections 4.3, 4.4, 4.6, 4.7, 5.1, 6.1, 6.2, 6.3, 6.12, 7.6, 8.5, 9.3 or 9.14 hereof and continuance of such failure for a period of thirty (30) days after receipt by the Lessee (Lot 23) of written notice specifying the nature of such default from the Agency;

(ii) Failure of the Lessee (Lot 23) to observe and perform any covenant or agreement on its part to be performed under Section 4.5 hereof and continuance of such failure for a period of fifteen (15) days after receipt by the Lessee (Lot 23) of written notice specifying the nature of such default from the Agency;

(c) Failure of the Lessee (Lot 23) to observe and perform any covenant, condition or agreement hereunder on its part to be performed (except as set forth in Section 7.1(a) or (b) above) and (i) continuance of such failure for a period of thirty (30) days after receipt by the Lessee (Lot 23) of written notice specifying the nature of such default from the Agency, or (ii) if by reason of the nature of such default the same can be remedied, but not within the said thirty (30) days, the Lessee (Lot 23) fails to proceed with reasonable diligence after receipt of said notice to cure the same or fails to continue with reasonable diligence its efforts to cure the same; or fails to cure the same within one hundred and eighty (180) days of receipt of said notice;

(d) The Lessee (Lot 23), any Other Lessee [or IAC (for so long as IAC shall be obligated under the Master Guaranty Agreement)] , the Master Guarantor or the Project Parent shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts generally become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under the Federal Bankruptcy Code, (vii) take any action for the purpose of effecting any of the foregoing, or (viii) be adjudicated a bankrupt or insolvent by any court;

(e) A proceeding or case shall be commenced, without the application or consent of the Lessee (Lot 23), any Other Lessee [or IAC (for so long as IAC shall be obligated under the Master Guaranty Agreement),] , the Master Guarantor or the Project Parent, in any court of competent jurisdiction, seeking, (i) liquidation, reorganization, dissolution, winding up or composition or adjustment of debts, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of the Lessee (Lot 23), any Other Lessee [or IAC (for so long as IAC shall be obligated under the Master Guaranty Agreement),] , the Master Guarantor or the Project Parent, or of all or any substantial part of their respective assets, or (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of ninety (90) days; or any order for relief against the Lessee (Lot 23), any Other Lessee [or IAC (for so long as IAC shall be obligated under the Master Guaranty Agreement),] , the Master Guarantor or the Project Parent shall be entered in an involuntary case under the Federal Bankruptcy Code; the terms “dissolution” or “liquidation” of the Lessee (Lot 23), the Master Guarantor or the Project Parent as used above shall not be construed to prohibit any action otherwise permitted by Section 6.1 hereof, Section 2.6 of the Guaranty Agreement (Lot 23), [or] Section 2.6 of the Master Guaranty Agreement or Section 3.3 of the Project Support Agreement;

(f) Any representation or warranty made by the Lessee (Lot 23) (i) in the application and related materials submitted to the Agency for approval of the Project (Lot 23) or the transactions contemplated by this Agreement, or (ii) herein or in any other Project Document, or (iii) in any report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing, shall in any case prove to be false, misleading or incorrect in any material respect as of the date made, and the passage of ten (10) days after receipt by the Lessee (Lot 23) of written notice thereof from the Agency;

(g) The commencement of proceedings to foreclose any mortgage lien on or security interest in the Facility (Lot 23), which proceedings shall not have been discontinued or discharged within sixty (60) days after the commencement thereof;

(h) Any loss of title by the Agency to all or any material part of the Facility (Lot 23);

(i) An "Event of Default" under any Project Document shall occur and be continuing;

(j) The Lessee (Lot 23) [or IAC (for so long as IAC shall be obligated under the Master Guaranty Agreement)] the Master Guarantor or the Project Parent or any Affiliate of [either] any of them shall become a Prohibited Person."

Section 12. Section 9.3(a)(vi) of the Original Lease is hereby amended to read as follows (additional language is underscored):

"(vi) except if the Agency shall release the Lessee (Lot 23) in writing from this Agreement and the Guaranty Agreement (Lot 23), in the Opinion of Counsel, such assignment, transfer or sublease shall not legally impair in any respect the obligations of the Lessee (Lot 23) for the payment of all Rental Payments nor for the full performance of all of the terms, covenants and conditions of this Agreement or of any other Project Document to which the Lessee (Lot 23) shall be a party, nor impair or limit in any respect the obligations of the Lessee (Lot 23) under the Guaranty Agreement (Lot 23), [or] of the Master Guarantor under the Master Guaranty Agreement or of the Project Parent under the Project Support Agreement."

Section 13. A new paragraph is hereby added to the end of Section 9.3(a) of the Original Lease (additional language is underscored):

"Notwithstanding the above provisions of this Section 9.3(a), no consent of the Agency shall be required in connection with the conversion by the Master Guarantor or the Lessee (Lot 23) from a Delaware limited liability company to a Delaware limited partnership (the "New LP") so long as:

(i) to the extent that such conversion shall constitute a transaction of the type described in this Section 9.3(a), the conditions (other than the consent of the Agency and the provisions of Section 9.3(a)(viii) hereof) set forth therefor in Section 9.3(a) shall be met on or prior to such conversion (except that the condition in Section 6.1(i) shall be modified to read as follows: "(i) maintain its existence as a limited partnership."), and

(ii) AMB Property, L.P., a Delaware limited partnership and the Project Parent, (x) is the sole general partner of the New LP, (y) owns not less

than a twenty percent (20%) ownership interest in the New LP, and (z) retains managing control of the New LP.”

Section 14. Section 9.5 of the Original Lease is hereby amended to read as follows (additional language is underscored and deleted language is bracketed):

“**Section 9.5 Notices.** All notices, certificates or other communications hereunder shall be sufficient if sent (i) by return receipt requested or registered or certified United States mail, postage prepaid, (ii) by a nationally recognized overnight delivery service, charges prepaid or (iii) by hand delivery, addressed, as follows:

(a) if to the Agency, to the Chairman, New York City Industrial Development Agency, 110 William Street, New York, New York 10038 with a copy to the Executive Director and the General Counsel of the Agency at the same address, and

(b) if to the Lessee (Lot 23), to c/o AMB Institutional Alliance Fund III, LLC, Pier 1, Bay 1, San Francisco, California 94111, Attention: Portfolio Manager and General Counsel, with a copy to Morrison & Foerster LLP, 755 Page Mill Road, Palo Alto, California 94304, Attention: Philip L. Levine, Esq., with a further copy to AMB International Airport Centers, LLC, c/o IAC New York L.L.C., 1849 Green Bay Road, Fourth Floor, Highland Park, Illinois[,] 60035, Attention: [Director/Treasury/Accounting Operations,] Chief Operating Officer, with a copy to Steven Polivy, Esq., Stadtmauer Bailkin, LLP, 850 Third Avenue, New York, New York 10022.

The Agency and the Lessee (Lot 23) may, by like notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice, certificate or other communication hereunder shall, except as may expressly be provided herein, be deemed to have been received two (2) Business Days after the mailing thereof if delivered or given by certified mail, return receipt requested. Notices may also be given in compliance with this Agreement by telecopy, provided that the recipient party consents to the use of telecopy transmissions for giving of notices hereunder and receipt of any such telecopy transmission is confirmed by the transmitting party.”

Section 15. Section 9.15(b) of the Original Lease is hereby amended to read as follows (additional language is underscored and deleted language is bracketed):

“(b) Anything contained in this Agreement to the contrary notwithstanding, and except as specifically set forth in the Master Guaranty Agreement or in the Project Support Agreement, recourse against the Lessee (Lot 23) for (1) the satisfaction of the obligations described in this Agreement, or (2) the performance of all of the other obligations of the Lessee (Lot 23) under this Agreement, or (3) any judgment rendered against the Lessee (Lot 23) by a

court of equity which requires the payment of money, shall be limited solely to the Lessee (Lot 23) and none of (i) any member or partner (general or limited) of the Lessee (Lot 23); (ii) any person owning, directly or indirectly, any legal or beneficial interest in any member or partner (general or limited) of the Lessee (Lot 23); (iii) any partner (general or limited, or a subpartner at any level), member, manager, principal, officer, controlling person, beneficiary, trustee, real estate investment advisor or other similar fiduciary, shareholder, employee, agent, affiliate or director of any person described in clauses (i) or (ii) above; or (iv) any of their respective successors and assigns, shall in any case be personally liable for the payment of any indebtedness of the Lessee (Lot 23) or the performance of any other obligations of the Lessee (Lot 23) hereunder; provided, however, that the foregoing exculpation shall not impair or otherwise affect any of the Agency's rights or remedies against the Lessee (Lot 23) or any collateral now or hereafter pledged to the Agency as security for the obligations of the Lessee (Lot 23) or any of the Agency's rights and remedies against [IAC] the Master Guarantor under the Master Guaranty Agreement or against the Project Parent under the Project Support Agreement.

Section 16. All terms not otherwise defined in this Amendment to Lease shall be deemed to have the same meaning assigned to such terms in the Original Lease.

Section 17. Except as hereby expressly amended, the Original Lease is in all respects ratified and confirmed, and all terms, provisions and conditions thereof shall be and remain in full force and effect, and this Amendment to Lease, and all of its terms, provisions and conditions, shall be deemed to be part of the Lease.

Section 18. All references in the Original Lease to "this Agreement" or words of similar import, and the terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms, as used in the Original Lease, shall be deemed to refer to the Original Lease, as amended by this Amendment to Lease.

Section 19. This Amendment to Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

Section 20. The date of this Amendment to Lease shall be for reference purposes only and shall not be construed to imply that this Amendment to Lease was executed on the date first above written. This Amendment to Lease was delivered and made effective on June 22, 2004.

IN WITNESS WHEREOF, the Agency has caused its corporate name to be hereunto subscribed by its duly Authorized Representative, and the Lessee (Lot 23) has caused its corporate name to be subscribed hereto by its Authorized Representative, all being done as of the year and day first above written.

**NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY**

By: Barbara Basser-Bigio
Barbara Basser-Bigio
Executive Director

AMB INSTITUTIONAL ALLIANCE FUND III, LLC

By: AMB Property, L.P., a Delaware limited
partnership, its Member

By: AMB Property Corporation, a Maryland
corporation, its General Partner

By: _____
Name:
Title:

IN WITNESS WHEREOF, the Agency has caused its corporate name to be hereunto subscribed by its duly Authorized Representative, and the Lessee (Lot 23) has caused its corporate name to be subscribed hereto by its Authorized Representative, all being done as of the year and day first above written.

**NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Barbara Basser-Bigio
Executive Director

AMB INSTITUTIONAL ALLIANCE FUND III, LLC

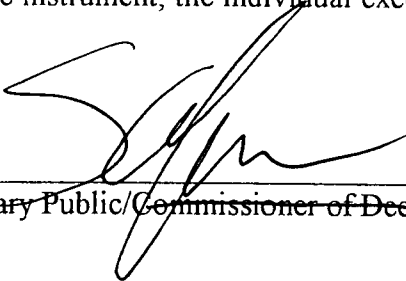
By: AMB Property, L.P., a Delaware limited partnership, its Member

By: AMB Property Corporation, a Maryland corporation, its General Partner

By: _____
Name: Tyler W. Higgins
Title: Senior Vice President
AMB Property Corporation

STATE OF NEW YORK)
 :SS.:
COUNTY OF NEW YORK)

On the 14 day of June, 2004, the undersigned, a Notary Public/~~Commissioner of Deeds~~ in and for said ~~State/The City of New York~~, personally appeared Barbara Basser-Bigio, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual executed the instrument.



Notary Public/~~Commissioner of Deeds~~

SHERYL A. JOHNSON
Notary Public State of New York
No. 01JO6039167
Qualified in New York County
Commission Expires March 27, 2006

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

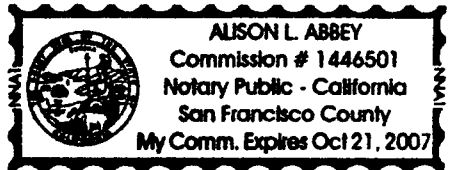
State of California }
County of San Francisco } ss.

On June 15, 2004 before me, Alison L. Abbey, Notary Public,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Tyler W. Higgins
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.
Alison L. Abbey
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

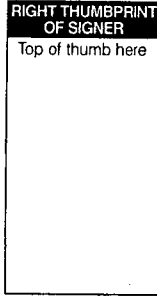
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



APPENDICES

EXHIBIT A

Description of Land (Lot 23)

LEGAL DESCRIPTION

PARCEL D

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH AND COUNTY OF QUEENS, CITY AND STATE OF NEW YORK BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDELINE OF INTERNATIONAL AIRPORT CENTER BOULEVARD (F/K/A ROCKAWAY BOULEVARD, 117 FOOT WIDE RIGHT OF WAY) DISTANT EASTERLY 2,575.265 FEET FROM THE INTERSECTION OF THE NORTHERLY SIDELINE OF INTERNATIONAL AIRPORT CENTER BOULEVARD (F/K/A ROCKAWAY BOULEVARD, 117 FOOT WIDE RIGHT OF WAY) WITH THE EASTERLY SIDELINE OF SPRINGFIELD BOULEVARD (UNIMPROVED) AND FROM SAID POINT OF BEGINNING RUNNING THENCE

1. ALONG THE DIVIDING LINE BETWEEN LOT 23, BLOCK 13791 AND LOT 22, BLOCK 13791, NORTH 07 DEGREES 35 MINUTES 57 SECONDS EAST, A DISTANCE OF 771.001 FEET TO A POINT; THENCE
2. ALONG THE DIVIDING LINE BETWEEN LOT 23, BLOCK 13791 AND LOT 2, BLOCK 13791, ALONG A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 5,880.000 FEET, A CENTRAL ANGLE OF 03 DEGREES 05 MINUTES 33 SECONDS, AN ARC LENGTH OF 317.355 FEET, BEARING A CHORD OF SOUTH 82 DEGREES 20 MINUTES 56 SECONDS EAST, A CHORD DISTANCE OF 317.316 FEET TO A POINT; THENCE
3. CONTINUING ALONG THE DIVIDING LINE BETWEEN LOT 23, BLOCK 13791 AND LOT 2, BLOCK 13791, SOUTH 06 DEGREES 52 MINUTES 51 SECONDS EAST, A DISTANCE OF 795.999 FEET TO A POINT ON THE AFOREMENTIONED NORTHERLY SIDELINE OF INTERNATIONAL AIRPORT CENTER BOULEVARD (F/K/A ROCKAWAY BOULEVARD, 117 FOOT WIDE RIGHT OF WAY); THENCE

ALONG SAID NORTHERLY SIDELINE OF INTERNATIONAL AIRPORT CENTER BOULEVARD (F/K/A ROCKAWAY BOULEVARD, 117 FOOT WIDE RIGHT OF WAY) NORTH 82 DEGREES 24 MINUTES 03 SECONDS WEST, A DISTANCE OF 516.350 FEET TO THE POINT OR PLACE OF BEGINNING.

TOGETHER WITH THE BENEFITS OF THAT CERTAIN OPERATION AND EASEMENT AGREEMENT MADE BY AND AMONG IAC NEW YORK L.L.C., IAC NEW YORK II L.L.C., IAC NEW YORK III L.L.C. AND IAC NEW YORK IV L.L.C. DATED 5/31/01 RECORDED 9/19/01 IN REEL 6015 PAGE 2408.

FOR INFORMATION ONLY: BLOCK 13791 PART OF LOT 2 - LOT 23

Exhibit B

[FORM OF SALES TAX LETTER]

**AMENDED AND RESTATED LETTER OF AUTHORIZATION
FOR SALES TAX EXEMPTION (Lot 23)**

June 22, 2004

TO WHOM IT MAY CONCERN

Re: New York City Industrial Development Agency
(2001 International Airport Centers L.L.C. Project-Lot 23)

Ladies and Gentlemen:

The New York City Industrial Development Agency (the "Agency"), by this notice, hereby advises you as follows:

1. The Agency constitutes a corporate governmental agency and a public benefit corporation under the laws of the State of New York, and therefore, in the exercise of its governmental functions, is exempt from the imposition of any New York State or New York City sales and use tax. As an exempt governmental entity, no exempt organization identification number has been issued to the Agency nor is one required.

2. Pursuant to a resolution adopted by the Agency on December 9, 1999, as amended on December 12, 2000, and a certain Lease Agreement (Lot 23), dated as of May 1, 2001, as amended and assigned (the "Lease Agreement"), between the Agency and AMB Institutional Alliance Fund III, LLC, a Delaware limited liability company (the "Company"), the Agency has authorized the Company to act as its agent for the acquisition of a certain parcel of land aggregating 7.386 acres and the construction of a building of approximately 141,782 square feet thereon, all for the leasing thereof to one or more tenants for use in the warehousing and distribution of air cargo and the intermodal transportation industry and for ancillary office uses and other ancillary commercial uses related thereto, to be located on 230-79 International Airport Center Boulevard, Jamaica, New York (the "Project (Lot 23)").

3. In connection with such resolutions, the Lease Agreement (Lot 23) and this Sales Tax Letter and pursuant to the authority therein granted, the Agency authorizes the Company to act as its agent in connection with the acquisition and construction of the Project (Lot 23) and authorizes the Company to use this Sales Tax Letter as its agent only for the payment of the costs of acquisition of building materials and building fixtures (excluding trade fixtures) for such acquisition and construction of the Project (Lot 23).

4. As agent for the Agency, the Company agrees that each contract, agreement, invoice, bill or purchase order entered into by the Company as agent for the Agency for the acquisition and construction of the Project (Lot 23) for which Sales Tax Savings (as defined in the Lease Agreement (Lot 23) are being sought) shall include language in substantially the following form:

“This [contract, invoice, bill or purchase order] is being entered into by AMB Institutional Alliance Fund III, LLC, a Delaware limited liability company (the “Agent”), as agent for and on behalf of the New York City Industrial Development Agency (the “Agency”) in connection with a certain project of the Agency for the Agent consisting of the acquisition of a 7.386 acre parcel of land and the construction thereon of a building of approximately 141,782 square feet, all for the leasing thereof to one or more tenants for use in the warehousing and distribution of air cargo and the intermodal transportation industry and ancillary office uses and other ancillary commercial uses related thereto, to be located on 230 79 International Airport Center Boulevard, Jamaica, New York (the “Project (Lot 23)”). The building materials and fixtures (excluding trade fixtures) to be used for the Project (Lot 23) which is the subject of this [contract, agreement, invoice, bill or purchase order] shall be exempt from the sales and use tax levied by the State of New York and The City of New York if effected in accordance with the terms and conditions set forth in the attached Sales Tax Letter of the Agency, and the Agent hereby represents that this [contract, agreement, invoice, bill or purchase order] is in compliance with the terms of the Sales Tax Letter. This [contract, agreement, invoice, bill or purchase order] is nonrecourse to the Agency, and the Agency shall not be directly or indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever, and the Agent shall be the sole party liable hereunder. By execution or acceptance of this [contract, agreement, invoice, bill or purchase order], the [vendor or contractor] hereby acknowledges and agrees to the terms and conditions set forth in this paragraph.”

5. The acquisition of building materials and building fixtures for use in construction of the Facility (Lot 23) constituting a part of the Project (Lot 23) shall be exempt from the sales and use tax levied by the State of New York and The City of New York on the condition that (i) such materials and capital improvements are separately identifiable property of the Agency, and (ii) any such property shall have a useful life of one year or more, shall be installed solely at the Facility (Lot 23) and at no other location, and be effected by and at the sole cost of the Company.

6. The Agency shall have no liability or performance obligations under any contract, agreement, invoice, bill or purchase order entered into by the Company as agent for the Agency hereunder. The Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever, and the Company shall be the sole party liable thereunder.

7. By execution by the Company of its acceptance of the terms of this Sales Tax Letter, the Company agrees to accept the terms hereof and represents and warrants to the

Agency that the use of this Sales Tax Letter by the Company is strictly for the purposes above stated.

8. Accordingly, until the earlier of (i) December 31, 2004, (ii) the completion of the Project (Lot 23) as provided in Section 2.2 of the Lease Agreement, (iii) the termination of the Lease Agreement (Lot 23), (iv) the receipt by the Company of notice from the Agency of the termination of this Sales Tax Letter or (v) the receipt by the Company and the Other Lessees (as defined in the Lease Agreement (Lot 23)) of the Maximum Sales Tax Savings of \$1,850,000 (in each case as so terminated, the "Termination Date"), all vendors, contractors and subcontractors are hereby authorized to rely on this Sales Tax Letter (or on a photocopy or fax of this Sales Tax Letter) as evidence that purchases of the Project (Lot 23) property, to the extent effected by the Company (or by a contractor or subcontractor engaged by the Company) as agent for the Agency, are exempt from all New York State and New York City sales and use taxes.

9. The Company agrees and covenants that upon the occurrence of the Termination Date, it will immediately deliver this Sales Tax Letter back to the Agency for cancellation.

The signature of a representative of the Company where indicated below will indicate that the Company has accepted the terms hereof.

NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Barbara Basser-Bigio
Executive Director

ACCEPTED AND AGREED TO BY:

AMB INSTITUTIONAL ALLIANCE FUND III, LLC

By: AMB Property, L.P., a Delaware limited partnership, its Member

By: AMB Property Corporation, a Maryland corporation, its General Partner

By: _____
Name: _____
Title: _____

LEASE AGREEMENT (Lot 23)

Dated as of May 1, 2001

by and between

NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY

and

IAC NEW YORK-IV L.L.C.

(2001 International Airport Centers L.L.C. Project - Lot 23)

Affecting the Land (Lot 23) generally known by the street address
230-79 International Airport Center Boulevard,
Jamaica, New York
Section 4, Block 13791 and Tentative Lot 23

in the County of Queens,
City and State of New York
as more particularly described in
Exhibit A to this Lease Agreement (Lot 23)
on the Official Tax Map of Queens County

Record and Return to:
Hawkins, Delafield & Wood
67 Wall Street
New York, New York 10005
Attention: Arthur M. Cohen, Esq.

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- Schedule D - Annual Subtenant Survey

LEASE AGREEMENT (Lot 23)

This **LEASE AGREEMENT (Lot 23)**, made and entered into as of May 1, 2001 (this "**Agreement**"), by and between **NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York (the "**Agency**"), having its principal office at 110 William Street, New York, New York 10038, party of the first part, and **IAC NEW YORK-IV L.L.C.**, a limited liability company duly organized and existing under the laws of the State of Delaware (the "**Lessee (Lot 23)**"), having its principal office at 1849 Green Bay Road, Fourth Floor, Highland Park, Illinois 60035, party of the second part:

WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "**Enabling Act**"), authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and furnish land, any building or other improvement, and all real and personal properties, including but not limited to machinery and equipment, deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, industrial or civic purposes, to the end that such agencies may be able to promote, develop, encourage, assist and advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act, the Agency was established by Chapter 1082 of the 1974 Laws of New York, as amended (together with the Enabling Act, the "**Act**"), for the benefit of The City of New York (the "**City**") and the inhabitants thereof; and

WHEREAS, to accomplish the purposes of the Act, the Agency has entered into negotiations with the Lessee (Lot 23), the Other Lessees and International Airport Centers L.L.C., a Delaware limited liability company ("**IAC**"), for a warehousing, distribution and commercial "project" within the meaning of the Act within the territorial boundaries of The City of New York and located on that certain lot, piece or parcel of land in Section 4, Block 13791 and Tentative Lot 23, generally known as and by the street address 230-79 International Airport Center Boulevard, Jamaica, New York (the "**Land (Lot 23)**"); and otherwise described in Exhibit A -- "Description of Land (Lot 23)" -- attached hereto and made a part hereof; and

WHEREAS, the project will consist of the acquisition and construction of a warehousing, distribution and commercial facility in Jamaica, New York (the "**Facility (Lot 23)**"), consisting of the acquisition of a certain parcel of real property aggregating approximately 7.386 acres and the construction of a building of approximately 141,782 square feet thereon, all for the

leasing thereof to one or more tenants for use in the warehousing and distribution of air cargo and the intermodal transportation industry and ancillary office uses and other ancillary commercial uses related thereto, to be located on 230-79 International Airport Center Boulevard, Jamaica, New York (the "**Project (Lot 23)**"); and

WHEREAS, to facilitate the Project (Lot 23), the Agency, the Lessee (Lot 23), the Other Lessees and IAC have entered into negotiations to enter into a "straight-lease transaction" within the meaning of the Act pursuant to the Agency's Industrial Incentive Program (Straight-Lease) in which (i) the Agency will acquire fee simple title to the Land (Lot 23) and the Improvements (Lot 23) and (ii) the Agency will lease its interest in the Facility (Lot 23) to the Lessee (Lot 23) pursuant to this Agreement; and, in furtherance of such purposes, the Agency adopted a resolution on December 9, 1999, as amended on December 12, 2000 (collectively, the "**Authorizing Resolution**"), authorizing the undertaking of the Project (Lot 23), the acquisition and construction of the Facility (Lot 23) by the Agency, the lease of the Facility (Lot 23) by the Agency to the Lessee (Lot 23) and the sublease of the Facility (Lot 23) by the Lessee (Lot 23) to one or more tenants for use in the warehousing and distribution of air cargo and the intermodal transportation industry and ancillary office uses and other ancillary commercial uses related thereto; and

WHEREAS, the provision by the Agency of financial assistance to the Lessee (Lot 23) and the Other Lessees through a straight-lease transaction has been determined to be necessary to induce the Lessee (Lot 23) and the Other Lessees to proceed with the Overall Project (as defined herein) within the City, and if the Agency does not provide such financial assistance, the Lessee (Lot 23) and the Other Lessees could not feasibly proceed with the Overall Project; and

WHEREAS, it is anticipated that commencing on or after the Commencement Date, the cost of the Project (Lot 23), together with the balance of the Overall Project, will be financed through (i) one or more loans in the aggregate principal amount of \$66,997,000 to be made by LaSalle Bank National Association, as agent for itself, Key Bank, National Association and Fleet National Bank, or such other financial institutions as are approved by the Agency (the "**First Mortgagee**"), a portion of which will be made available to the Lessee (Lot 23) (the "**Mortgage Loan**"), and (iii) equity furnished by IAC on behalf of the Lessee (Lot 23) and the Other Lessees; and

WHEREAS, in order to evidence its obligation to repay the Mortgage Loan, the Lessee (Lot 23) and the Other Lessees will issue to the three banks comprising the First Mortgagee three (3) Mortgage Notes, a LaSalle Bank Note, a KeyBank Note and a Fleet National Bank Note (collectively, the "**Mortgage Note**") in the aggregate principal amount of the Mortgage Loan; and

WHEREAS, it is anticipated that on or subsequent to the Commencement Date, in order to secure the obligations of the Lessee (Lot 23) and the Other Lessees to the First Mortgagee under the Mortgage Note, the Lessee (Lot 23), the Other Lessees and the Agency will grant a first mortgage on the Facilities to the First Mortgagee, subject to permitted encumbrances thereon, pursuant to a certain Mortgage (the "**Mortgage**"), from the Lessee (Lot 23), the Other Lessees and the Agency to the First Mortgagee; and

WHEREAS, the Lessee (Lot 20) has acquired title to the Land (Lot 23), together with three (3) contiguous lots from New York City Economic Development Corporation pursuant to the City Deed, pursuant to which the Lessee (Lot 20) is obligated to cause the Overall Project to be substantially completed in accordance with the terms of the City Deed; and

WHEREAS, simultaneously with the execution and delivery of this Agreement, the Lessee (Lot 23) will convey, or cause there to be conveyed to the Agency, pursuant to a Bargain and Sale Deed with covenants against grantor's acts, dated the Commencement Date (the "**Deed (Lot 23)**"), good and marketable fee simple title to the Land (Lot 23), subject to the limitations contained in the City Deed, and all rights or interests therein or appertaining thereto, together with all structures, buildings, foundations, related facilities, fixtures and other Improvements (Lot 23) existing thereon or therein as of the date thereof; and

WHEREAS, pursuant to this Agreement, the Agency will lease the Facility (Lot 23) to the Lessee (Lot 23);

NOW, THEREFORE, in consideration of the premises and the respective representations and agreements hereinafter contained, the parties hereto agree as follows (provided that in the performance of the agreements of the Agency herein contained, any obligation it may incur for the payment of money shall not subject the Agency to any pecuniary or other liability or create a debt of the State of New York or of The City of New York, and neither the State of New York nor The City of New York shall be liable on any obligation so incurred, but any such obligation shall be payable solely out of the lease rentals, revenues and receipts derived from or in connection with the Facility (Lot 23), including moneys received under this Agreement):

ARTICLE I

DEFINITIONS AND REPRESENTATIONS

Section 1.1 Definitions. The following terms shall have the following meanings in this Agreement:

Act shall mean, collectively, the New York State Industrial Development Agency Act (constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York), as amended, and Chapter 1082 of the 1974 Laws of New York, as amended.

Additional Rent shall mean any additional rental payments described in Section 3.3(b) of this Agreement.

An **Affiliate** of a Person shall mean a Person which directly or indirectly through one or more intermediaries controls, or is under common control with, or is controlled by, such Person. The term "control" (including the related terms "controlled by" and "under common control with") means (i) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and (ii) the ownership, either directly or indirectly, of at least 51% of the voting stock or other equity interest of such Person.

Agency shall mean the New York City Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State, duly organized and existing under the laws of the State, and any body, board, authority, agency or other governmental agency or instrumentality which shall hereafter succeed to the powers, duties, obligations and functions thereof.

Agreement shall mean this Lease Agreement (Lot 23), between the Agency and the Lessee (Lot 23), and shall include any and all amendments hereof and supplements hereto hereafter made in conformity herewith.

Approved Facility (Lot 23) shall mean the facility located on 230-79 International Airport Center Boulevard, Jamaica, New York for lease to one or more Facility Tenants (Lot 23) for use in the warehousing and distribution of air cargo and the intermodal transportation industry and ancillary office uses and other ancillary commercial uses related thereto, subject, however, to the Limitation on Use of the Facilities.

Approved Uses shall mean for use in the warehousing and distribution of air cargo and the intermodal transportation industry and ancillary office uses and other ancillary commercial uses related thereto.

Authorized Representative shall mean, (i) in the case of the Agency, the Chairperson, Vice Chairperson, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary,

Executive Director, Deputy Executive Director, General Counsel or Vice President for Legal Affairs of the Agency, or any other officer or employee of the Agency who is authorized to perform specific acts or to discharge specific duties hereunder and of whom another Authorized Representative of the Agency has given written notice to the Lessee (Lot 23); (ii) in the case of the Lessee (Lot 23), any managing member or any other employee who is authorized to perform specific acts or to discharge specific duties hereunder and of whom another Authorized Representative of the Lessee (Lot 23) has given written notice to the Agency; and (iii) in the case of the Master Guarantor, any managing member or any other employee who is authorized to perform specific acts or to discharge specific duties hereunder and of whom another Authorized Representative of the Master Guarantor has given written notice to the Agency.

Base Rent shall mean the rental payment described in Section 3.3(a) of this Agreement.

Business Day shall mean any day which shall not be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City are authorized by law or executive order to close.

City shall mean The City of New York, New York.

City Deed shall mean the deed delivered on the Commencement Date to the Lessee (Lot 20) from the New York City Economic Development Corporation relating to the Project Land.

Commencement Date shall mean May 31, 2001, on which date this Agreement was delivered.

Deed (Lot 20) shall mean the Deed (Lot 20) from the Lessee (Lot 20) to the Agency.

Deed (Lot 21) shall mean the Deed (Lot 21) from the Lessee (Lot 21) to the Agency.

Deed (Lot 22) shall mean the Deed (Lot 22) from the Lessee (Lot 22) to the Agency.

Deed (Lot 23) shall mean the Deed (Lot 23) referred to in the recitals to this Agreement.

Deeds shall mean, collectively, the Deed (Lot 20), the Deed (Lot 21), the Deed (Lot 22) and the Deed (Lot 23).

Event of Default shall have the meaning specified in Section 7.1 hereof.

Exempt Property shall mean only the materials to be used with respect to the construction of the Improvements (Lot 23) on the Land (Lot 23) in connection with the Project (Lot 23) on or before the date of completion of the Project (Lot 23) (as evidenced in accordance with Section 2.2 hereof) for incorporation in the Facility (Lot 23) which have been exempted from Sales

Taxes by reason of the use of the Sales Tax Letter (Lot 23) and the Agency's involvement in the Project (Lot 23).

Facilities shall mean, collectively, the Facility (Lot 20), the Facility (Lot 21), the Facility (Lot 22) and the Facility (Lot 23).

Facility (Lot 20) shall have the meaning assigned that term in the Lease Agreement (Lot 203).

Facility (Lot 21) shall have the meaning assigned that term in the Lease Agreement (Lot 21).

Facility (Lot 22) shall have the meaning assigned that term in the Lease Agreement (Lot 22).

Facility (Lot 23) or Facility Realty (Lot 23) shall mean, collectively, the Land (Lot 23) and the Improvements (Lot 23).

Facility Lease shall mean a lease or other right of occupancy and/or possession granted or suffered by a Lessee to another Person with respect to all or any portion of a Facility.

Facility Lease (Lot 23) shall mean a lease or other right of occupancy granted or suffered by the Lessee (Lot 23) to another Person with respect to all or any portion of the Facility (Lot 23).

Facility Tenant Employees shall mean an employee of a Facility Tenant who works at least 35 hours per week (subject to customary vacation, holiday and sick leave), provided that (i) such employee is located and employed exclusively to work at one of the Facilities, (ii) the income of such employee is paid or allocated primarily from the Facility Tenant's New York City-based payroll, and (iii) with respect to such employee, the Facility Tenant is responsible for the payment of unemployment insurance premiums and for reporting to the New York State Department of Labor such employee as a New York City-based employee of such Facility Tenant on Form NYS-45 or its equivalent. For purposes of calculating the aggregate number of Facility Tenant Employees, two (2) part-time employees of a Facility Tenant who each work at least 20 hours per week (subject to customary vacation, holiday and sick leave) shall, if otherwise meeting the requirements of clauses (i) through (iii) of the immediately preceding sentence, be counted as one (1) Facility Tenant Employee.

Facility Tenant shall mean a Person who shall use or occupy all or any portion of the Facilities subject to this Agreement or a Remaining Lease Agreement pursuant to a Facility Lease.

Facility Tenant (Lot 23) shall mean a Person who shall use or occupy all or any portion of the Facility (Lot 23) pursuant to a Facility Lease (Lot 23).

First Mortgagee shall have the meaning assigned to that term in the preambles of this Agreement, and shall include its successors and assigns.

Fiscal Year of the Lessee (Lot 23) shall mean a year of 365 or 366 days, as the case may be, commencing on January 1 and ending on December 31 of each calendar year, or such other fiscal year of similar length used by the Lessee (Lot 23) for accounting purposes as to which the Lessee (Lot 23) shall have given prior written notice thereof to the Agency at least ninety (90) days prior to the commencement thereof.

Guaranty Agreement (Lot 20) shall mean the Guaranty Agreement (Lot 20), dated as of even date herewith, from the Lessee (Lot 20) to the Agency, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Guaranty Agreement (Lot 21) shall mean that certain Guaranty Agreement (Lot 21), dated as of even date herewith, from the Lessee (Lot 21) to the Agency, as the same may be amended and supplemented in accordance with its terms.

Guaranty Agreement (Lot 22) shall mean that certain Guaranty Agreement (Lot 22), dated as of even date herewith, from the Lessee (Lot 22) to the Agency, as the same may be amended and supplemented in accordance with its terms.

Guaranty Agreement (Lot 23) shall mean that certain Guaranty Agreement (Lot 23), dated as of even date herewith, from the Lessee (Lot 23) to the Agency, as the same may be amended and supplemented in accordance with its terms.

IAC shall mean International Airport Centers L.L.C., a Delaware limited liability company, and its permitted successors and assigns.

Improvements (Lot 23) shall mean all buildings, structures, foundations, related facilities, fixtures and other improvements existing on the Commencement Date or at any time made, erected or situated on the Land (Lot 23) (including any improvements made as part of the Project (Lot 23) pursuant to Section 2.2 hereof) and all replacements, improvements, extensions, substitutions, restorations, repairs or additions thereto.

Independent Accountant shall mean an independent certified public accountant or firm of independent certified public accountants selected by the Lessee (Lot 23) or IAC and approved by the Agency (such approval not to be unreasonably withheld or delayed).

Industrial Use shall mean the use of a Facility by a Facility Tenant for the actual warehousing and distribution of air cargo as distinguished from an ancillary or incidental use such as office space or other non-warehousing or non-distribution function; provided, however, that to the extent that any Facility Tenant shall use any portion of Occupied Space for an Industrial Use as well as other uses, and more than half of the Occupied Space shall be used for Industrial Use, the

Occupied Space shall be counted, for purposes of the Limitation of Use of the Facilities as provided in Section 3.1 hereof, as Industrial Use.

Land (Lot 23) shall mean that certain lot, piece or parcel of land in Section 4, Block 13791 and Tentative Lot 23, generally known by the street address of 230-79 International Airport Center Boulevard, Jamaica, New York, all as more particularly described in Exhibit A - "Description of the Land (Lot 23)" hereto, which is made a part hereof, together with all easements, rights and interests now or hereafter appurtenant or beneficial thereto; but excluding, however, any real property or interest therein released pursuant to Section 6.4 hereof.

Lease Agreement (Lot 20) shall mean that certain Lease Agreement (Lot 20), dated as of even date herewith, between the Lessee (Lot 20) and the Agency, as the same may be amended and supplemented in accordance with its terms.

Lease Agreements shall mean this Agreement and each of the Lease Agreement (Lot 20), the Lease Agreement (Lot 21) and the Lease Agreement (Lot 22).

Lease Agreement (Lot 21) shall mean that certain Lease Agreement (Lot 21), dated as of even date herewith, between the Lessee (Lot 21) and the Agency, as the same may be amended and supplemented in accordance with its terms.

Lease Agreement (Lot 22) shall mean that certain Lease Agreement (Lot 22), dated as of even date herewith, between the Lessee (Lot 22) and the Agency, as the same may be amended and supplemented in accordance with its terms.

Legal Requirements shall have the meaning specified in Section 4.7 hereof.

Lessees shall mean, collectively, the Lessee (Lot 20), the Lessee (Lot 21), the Lessee (Lot 22) and the Lessee (Lot 23).

Lessee (Lot 20) shall mean IAC New York L.L.C., a Delaware limited liability company, and its permitted successors and assigns pursuant to Section 6.1 or 9.3 of the Lease Agreement (Lot 20).

Lessee (Lot 21) shall mean IAC New York - II L.L.C., a Delaware limited liability company, and its permitted successors and assigns pursuant to Section 6.1 or 9.3 of the Lease Agreement (Lot 21).

Lessee (Lot 22) shall mean IAC New York - III L.L.C., a Delaware limited liability company, and its permitted successors and assigns pursuant to Section 6.1 or 9.3 of the Lease Agreement (Lot 22).

Lessee (Lot 23) shall mean IAC New York - IV L.L.C., a Delaware limited liability company, and its permitted successors and assigns pursuant to Section 6.1 or 9.3 hereof.

Lessee's Property (Lot 23) shall have the meaning specified in Section 4.1(c) hereof.

Liens shall have the meaning specified in Section 6.5(a) hereof.

Limitation on Use of the Facilities shall have the meaning assigned such term in Section 3.1(c) hereof.

Loan shall mean the Mortgage Loan to the Lessee (Lot 23) and the Other Lessees.

Loss Event shall have the meaning specified in Section 5.1(a) hereof.

Master Guarantor shall mean International Airport Centers L.L.C., a Delaware limited liability company, and its permitted successors and assigns under the Master Guaranty Agreement.

Master Guaranty Agreement shall mean the Master Guaranty Agreement, dated as of even date herewith, from IAC to the Agency, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Maximum Sales Tax Savings shall mean \$1,850,000 in nominal dollars.

Mortgage shall mean the mortgages referred to in the recitals to this Agreement and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith, together with any Permitted Mortgages.

Mortgage Loan shall mean the loan by the First Mortgagee to the Lessee (Lot 23) and the Other Lessees in connection with the Overall Project.

Mortgage Note shall mean, collectively, the LaSalle Bank Note, the KeyBank Note and the Fleet National Bank Note referred to in the recitals to this Agreement and shall include any and all amendments thereof and supplements thereto hereafter made in conformity with the Mortgage.

Mortgagee shall mean the First Mortgagee and its respective successors and assigns pursuant to the Mortgage, and any Permitted Mortgagees.

Net Proceeds shall mean, when used with respect to any insurance proceeds or condemnation award, compensation or damages with respect to the Facility (Lot 23), the gross amount of any such proceeds, award, compensation or damages less all expenses (including reasonable attorneys' fees and any extraordinary expenses of the Agency or the Mortgagee) incurred in the collection thereof.

Occupied Space shall mean that portion of the rentable square footage of the Facilities as shall be the subject of a Facility Lease.

Office Use shall mean the use of a Facility by a Facility Tenant for office use.

Opinion of Counsel shall mean a written opinion of counsel for the Lessee (Lot 23) who shall be reasonably acceptable to the Agency.

Other Lessees shall mean, collectively, the Lessee (Lot 20), the Lessee (Lot 21) or the Lessee (Lot 22).

Other Sales Tax Letters shall mean, collectively, the Sales Tax Letters issued to the Other Lessees.

Overall Project shall mean, collectively, the Project (Lot 23) and each other Project as referred to in the Remaining Lease Agreements.

Permitted Encumbrances shall mean:

(i) this Agreement, each Facility Lease (Lot 23), the City Deed, the Mortgage and any other Permitted Mortgages;

(ii) liens for real estate taxes, assessments, levies and other governmental charges, the payment of which is not yet due and payable;

(iii) any mechanic's, workmen's, repairmen's, materialmen's, contractors', carriers', suppliers' or vendors' Lien or right in respect thereof if payment is not yet due and payable, all if and to the extent permitted by Section 6.5 hereof;

(iv) any lien, security interest, encumbrance or charge, or any conditional sale or other title retention agreement, that any vendor of property or any contractor hired to perform work may place on or with respect to the Facility (Lot 23) or any part thereof;

(v) the Operation and Easement Agreement dated the Commencement Date by and among the Lessee (Lot 23) and the Other Lessees, and utility, access and other easements and rights-of-way, restrictions and exceptions that an Authorized Representative of the Lessee (Lot 23) certifies to the Agency will not materially interfere with or impair the use and enjoyment by the Lessee (Lot 23) and the Facility Tenants (Lot 23) of the Facility (Lot 23) as herein provided;

(vi) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as normally exist with respect to property similar in character to the Facility (Lot 23) as do not, as set forth in a certificate of an Authorized Representative of the Lessee (Lot 23) delivered to the Agency, either singly or in the aggregate, render title to the Facility (Lot 23) unmarketable or materially impair the property affected thereby for the purpose for which it was acquired and held by the Agency hereunder or purport to impose liabilities or obligations on the Agency;

(vii) those exceptions to title to the Facility (Lot 23) enumerated in the title insurance policy delivered pursuant to Section 2.3 hereof insuring the fee simple title of the Agency to the Facility (Lot 23), a copy of which is on file at the offices of the Agency; and

(viii) those restrictions and encumbrances to which the City Deed is subject at the time of its delivery.

Permitted Mortgagees shall mean the holders from time to time of the First Mortgage and any other Permitted Mortgage.

Permitted Mortgages shall mean mortgages (including the First Mortgage):

- (i) approved as to form and substance by the Agency;
- (ii) securing indebtedness, together with any other Permitted Mortgage, at no time greater than \$89,400,000;
- (iii) which, together with the First Mortgage and any other Permitted Mortgages under this Agreement and the Remaining Lease Agreements, do not result in a mortgage recording tax exemption by reason of the Agency's involvement in the Facilities in excess of \$2,458,500;
- (iv) which do not provide for a power of sale or non-judicial foreclosure of the subject property;
- (v) which do not encumber, pledge or assign this Agreement or any of the Rental Payments;
- (vi) which limit the Agency's liability to its interest in the property mortgaged by the Agency and impose no personal or pecuniary liability whatsoever on the Agency or the City; and
- (vii) which provide that, in the event of foreclosure or other remedies, the first proceeds realized are to be applied to the satisfaction of any unpaid payment-in-lieu-of-real estate tax obligation of any of the Lessees under the Lease Agreements.

Person shall mean any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, general partnership, limited liability company or government or any agency or political subdivision thereof or other entity.

PILOT Depository shall mean The Bank of New York, a corporation organized and existing under the laws of the State of New York, or its successors.

Prohibited Person shall mean (i) any Person (A) that is in default or in breach, beyond any applicable grace period, of its obligations under any written agreement with the Agency or the City, or (B) that directly or indirectly controls, is controlled by, or is under common control with a Person that is in default or in breach, beyond any applicable grace period, of its obligations under any written agreement with the Agency or the City, unless such default or breach has been waived in writing by the Agency or the City, as the case may be, and (ii) any Person (A) that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure, or (B) that directly or indirectly controls, is controlled by, or is under common control with a Person that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure.

Project (Lot 23) shall mean the acquisition of a parcel of real property aggregating approximately 7.386 acres and the construction of a building of approximately 141,782 square feet thereon, all for use as an Approved Facility (Lot 23), to be located at 230-79 International Airport Center Boulevard, Jamaica, New York.

Project Counsel shall mean Hawkins, Delafield & Wood or such other attorneys that are recognized for their expertise in municipal finance law and are selected by the Agency to render legal advice to the Agency in connection with the transactions contemplated by this Agreement.

Project Documents shall mean, collectively, this Agreement, the City Deed, the Deed (Lot 20), the Deed (Lot 21), the Deed (Lot 22), the Deed (Lot 23), the Facility Leases, the Lease Agreement (Lot 20), the Lease Agreement (Lot 21), the Lease Agreement (Lot 22), the Master Guaranty Agreement, the Guaranty Agreement (Lot 20), the Guaranty Agreement (Lot 21), the Guaranty Agreement (Lot 22), the Guaranty Agreement (Lot 23), the Mortgage Note, the Mortgage, the Sales Tax Letter (Lot 23) and the Other Sales Tax Letters.

Project Land shall mean, collectively, the Land (Lot 23) and the Land under the Remaining Lease Agreements.

Remaining Lease Agreements shall mean, collectively, the Lease Agreement (Lot 20), the Lease Agreement (Lot 21) and the Lease Agreement (Lot 22), to the extent that each shall continue in full force and effect.

Rental Payments shall mean, collectively, Base Rent and Additional Rent.

Retail Use shall mean the use of a Facility by a Facility Tenant for the making of retail sales to customers who personally visit the premises so used. For purposes of this definition, "retail sales" shall mean (i) sales by a registered vendor under Article 28 of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in Section 1101(b)(4)(i) of the New York Tax Law, or (ii) sales of a service to such customers.

Sales Taxes shall mean New York City and New York State sales and/or compensating use taxes imposed pursuant to Sections 1105, 1107, 1109, and 1110 of the New York State Tax Law, as each of the same may be amended from time to time (including any successor provisions to such statutory sections).

Sales Tax Letter (Lot 23) shall mean the Letter of Authorization for Sales Tax Exemption (Lot 23), dated the Commencement Date, which the Agency shall make available to the Lessee (Lot 23) in accordance with and substantially in the form set forth in the appendices to this Agreement.

Sales Tax Savings shall mean all exemptions from Sales Taxes realized by the Lessee (Lot 23) pursuant to the Sales Tax Letter (Lot 23) by reason of the Agency's interest in the Facility (Lot 23) or any part thereof and the provisions of Section 874 of the New York State General Municipal Law and Section 1115 of the New York State Tax Law.

State shall mean the State of New York.

Total Occupied Space shall mean, at any one time, the aggregate amount of Occupied Space.

Section 1.2 Construction. In this Agreement, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" shall mean after, and the term "heretofore" shall mean before, the Commencement Date.

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships and limited liability partnerships), trusts, corporations, limited liability companies and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

Section 1.3 Representations and Warranties by Agency. The Agency represents and warrants that the Agency (i) is a corporate governmental agency constituting a body corporate and politic and a public benefit corporation duly organized and existing under the laws of the State, (ii) assuming the accuracy of the representations made by the Lessee (Lot 23), by the Other Lessees and by IAC, is authorized and empowered to enter into the transactions contemplated by this Agreement and any other Project Documents to which the Agency is a party and to carry out its obligations hereunder and thereunder, and (iii) by proper action of its board of directors, has duly authorized the execution and delivery of this Agreement and such other Project Documents to which the Agency is a party.

Section 1.4 Findings by Agency. The Agency, based upon the representations and warranties of the Lessee (Lot 23) contained in this Agreement and the information contained in the application and other materials heretofore submitted by or on behalf of the Lessee (Lot 23), the Other Lessees or IAC to the Agency, hereby affirms its findings and determinations set forth in the Authorizing Resolution, and further finds and determines, that

(i) the providing of financial assistance (within the meaning of the Act) through the straight-lease transaction (within the meaning of the Act) contemplated by this Agreement is necessary to induce the Lessee (Lot 23) and the Other Lessees to proceed with the Overall Project;

(ii) the transactions contemplated by this Agreement shall not result in the removal of any facility or plant of the Lessee (Lot 23) or of any of the Other Lessees or any other occupant or user of the Facility (Lot 23) from one area of the State (but outside of the

City) to within the City or in the abandonment of one or more facilities or plants of the Lessee (Lot 23), any of the Other Lessees or of any other occupant or user of the Facility (Lot 23) located within the State (but outside of the City), except, with respect to any Facility Tenant (Lot 23) as necessary for such Facility Tenant (Lot 23) to remain competitive within its industry or to prevent such Facility Tenant (Lot 23) from relocating its operations outside of the State;

(iii) the transactions contemplated by this Agreement shall not provide financial assistance in respect of any project where facilities or property that are primarily used in making retail sales (within the meaning of the Act) of goods or services to customers who personally visit such facilities constitute more than one-third of the total project costs; and

(iv) undertaking the Project (Lot 23) will serve the public purposes of the Act by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the State; and

(v) no funds of the Agency shall be used in connection with the transactions contemplated by this Agreement for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promoting materials which depict elected or appointed government officials in either print or electronic media, nor shall any funds of the Agency be given hereunder to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State.

Section 1.5 Representations and Warranties by the Lessee (Lot 23). The Lessee (Lot 23) makes the following representations and warranties:

(a) The Lessee (Lot 23) is a limited liability company duly organized and validly existing under the laws of the State of Delaware and is in good standing under the laws of the State of New York, is not in violation of any provision of its certificate of formation or its operating agreement, has the power and authority to own its property and assets, to carry on its business as now being conducted by it and to execute, deliver and perform this Agreement and each other Project Document to which it is or shall be a party.

(b) The execution, delivery and performance of this Agreement and each other Project Document to which the Lessee (Lot 23) is or shall be a party and the consummation of the transactions herein and therein contemplated will not violate any provision of law, any order of any court or agency of government, or the certificate of formation or operating agreement of the Lessee (Lot 23), or any indenture, agreement or other instrument to which the Lessee (Lot 23) is a party or by which it or any of its property is subject to or bound, or be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument or result in the imposition of any lien, charge or encumbrance of any nature whatsoever other than Permitted Encumbrances. Performance of this Agreement by the Lessee

(Lot 23) may be limited by bankruptcy, moratorium or insolvency or other laws affecting creditors' rights generally and is subject to general rules of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(c) There is no action or proceeding pending or, to the best of the knowledge of the Lessee (Lot 23), after diligent inquiry, threatened by or against the Lessee (Lot 23) by or before any court or administrative agency that would adversely affect the ability of the Lessee (Lot 23) to perform its obligations under this Agreement and each other Project Document to which it is or shall be a party and all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by the Lessee (Lot 23) as of the date hereof in connection with the execution and delivery of this Agreement and each other Project Document to which the Lessee (Lot 23) shall be a party or in connection with the performance of the obligations of the Lessee (Lot 23) hereunder and under each of the Project Documents have been obtained or will be obtained on a timely basis before such authorizations, consents and approvals are required to proceed with the construction of the Improvements (Lot 23).

(d) The Facility (Lot 23) will constitute a "project" under the Act, and the Lessee (Lot 23) intends to operate the Facility (Lot 23), or cause the Facility (Lot 23) to be operated, in accordance with this Agreement and as an Approved Facility (Lot 23) and a qualified "project" in accordance with and as defined under the Act.

(e) The financial assistance (within the meaning of the Act) provided by the Agency to the Lessee (Lot 23) and to IAC through the straight-lease transaction (within the meaning of the Act) as contemplated by this Agreement is necessary to induce the Lessee (Lot 23) and IAC to proceed with the Project (Lot 23).

(f) Subject to Sections 4.2 and 5.1 hereof, no property constituting part of the Facility (Lot 23) shall be located at any site other than at the Facility (Lot 23).

(g) The transactions contemplated by this Agreement shall not result in the removal of any facility or plant of the Lessee (Lot 23), of any Facility Tenant (Lot 23) or of any of the Other Lessees or any other occupant or user of the Facility (Lot 23) from one area of the State (but outside of the City) to within the City or in the abandonment of one or more facilities or plants of the Lessee (Lot 23), of any Facility Tenant (Lot 23) or of any of the Other Lessees or any other occupant or user of the Facility (Lot 23) located within the State (but outside of the City), except, with respect to any Facility Tenant (Lot 23), as necessary for such Facility Tenant (Lot 23) to remain competitive within its industry or to prevent such Facility Tenant (Lot 23) from relocating its operations outside of the State.

(h) The transactions contemplated by this Agreement shall not provide financial assistance in respect of any project where facilities or property that are primarily used in making retail sales (within the meaning of the Act) of goods or services to customers who personally visit such facilities constitute more than one-third of the total project costs.

(i) Undertaking the Project (Lot 23) will serve the public purposes of the Act by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the State.

(j) No funds of the Agency shall be used in connection with the transactions contemplated by this Agreement for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promoting materials which depict elected or appointed government officials in either print or electronic media, nor shall any funds of the Agency be given hereunder to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State.

(k) This Agreement and the other Project Documents to which the Lessee (Lot 23) is or shall be a party constitute the legal, valid and binding obligations of the Lessee (Lot 23) enforceable against the Lessee (Lot 23) in accordance with their respective terms, except as may be limited by bankruptcy, moratorium or insolvency or other laws affecting creditors' rights generally and is subject to general rules of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(l) The Lessee (Lot 23), to the best of its knowledge, is in compliance, and will continue to comply, and will use its best efforts to cause compliance, with all Federal, State and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality applicable to the Project (Lot 23) and the operation of the Facility (Lot 23).

(m) The amounts to be provided to the Lessee (Lot 23) and the Other Lessees pursuant to the Mortgage Loan, together with other moneys to be provided by IAC, are sufficient to pay all costs in connection with the completion of the Overall Project.

(n) Except as permitted by Section 9.3 hereof, no Person other than the Lessee (Lot 23), Facility Tenants (Lot 23) and/or the Other Lessees is or will be in use, occupancy or possession of any portion of the Facility (Lot 23).

(o) The Project (Lot 23) will be designed, and the operation of the Facility (Lot 23) will be, in compliance with all applicable Federal, State and local laws or ordinances (including rules and regulations) relating to safety and environmental quality.

(p) Neither the Lessee (Lot 23) nor any Affiliate thereof is a Prohibited Person, nor does the Lessee (Lot 23) expect any Facility Tenant (20) or any Affiliate thereof to be a Prohibited Person.

(q) The rentable square footage of the Improvements (Lot 23) constituting part of the Facility (Lot 23) is estimated to be approximately 141,782 rentable square feet.

(r) The Land (Lot 23) is approximately 7.386 acres.

(s) The fiscal year of the Lessee (Lot 23) is the 365 or 366 day period, as the case may be, commencing on January 1, and ending on December 31 of each calendar year.

(t) The Lessee (Lot 23) intends the Mortgage Loan to be made available to the Lessee (Lot 23) and the Other Lessees, as amended, on the Commencement Date, the Project (Lot 23) to be complete by July 1, 2003, the commencement of the leasing of the Facility (Lot 23) to have occurred prior to July 1, 2003, and the full lease-up of the Facility (Lot 23) by December 31, 2003. The Lessee further intends the Overall Project to be complete by December 31, 2003, the full lease-up of the Facilities by December 31, 2003, and that the number of Facility Tenant Employees following the full lease-up of the Facilities to be 1,111.

ARTICLE II

CONVEYANCE TO THE AGENCY; THE PROJECT (Lot 23); AND TITLE INSURANCE

Section 2.1 The Deed (Lot 23). The Agency has acquired, for nominal consideration, pursuant to the Deed (Lot 23), good and marketable fee simple title to the Land (Lot 23), and all rights or interests therein or appertaining thereto, together with all structures, buildings, foundations, related facilities, fixtures and other improvements existing thereon or therein as of the date thereof, free and clear of all liens, claims, charges, encumbrances, security interests and servitudes other than Permitted Encumbrances. It is understood that (i) good and marketable fee simple title to all Improvements (Lot 23) intended to be incorporated or installed in the Facility (Lot 23) as part of the Project (Lot 23) shall vest in the Agency immediately upon delivery to or installation or incorporation into the Facility (Lot 23) or payment therefor, whichever shall occur first, and (ii) the Lessee (Lot 23) shall take all action necessary to so vest title to such Improvements (Lot 23) in the Agency and to protect such title against claims of any third parties.

Section 2.2 The Project (Lot 23). (a) For purposes of this Section 2.2(a), the "Project (Lot 23)" shall include the joint and several liability of the Lessee (Lot 23) and the Other Lessees (y) to observe and perform the "Work", as such term is defined in paragraphs (b)(1) through (b)(5) of the City Deed, a copy of which City Deed is annexed hereto as Exhibit D, and (z) to otherwise comply with all covenants and obligations of the "Grantee" and "Purchasing Affiliates" in accordance with the terms and provisions of the City Deed. The Agency hereby appoints the Lessee (Lot 23) its true and lawful agent, and the Lessee (Lot 23) hereby accepts such agency for purposes of undertaking the Project (Lot 23), including, without limitation, (i) constructing the Improvements (Lot 23) on the Land (Lot 23), (ii) making, executing, acknowledging and delivering any contracts, orders, receipts, writings and instructions with any other Persons (subject in each case to Section 2.4 hereof), and in general doing all things which may be requisite or proper, all for the purposes of undertaking the Project (Lot 23) with the same powers and with the same validity and effect as the Agency could do if acting in its own behalf, (iii) paying all fees, costs and expenses incurred in the acquiring and construction of the Facility (Lot 23) from funds made available therefor in accordance with or as contemplated by this Agreement and the Mortgage Loan, and (iv) asking, demanding, suing for, levying, recovering and receiving all such sums of money, debts due and other demands whatsoever which may be due, owing and payable to the Agency under the terms of any contract, order, receipt or writing in connection with the Project (Lot 23) and to enforce the provisions of any contract, agreement, obligation, bond or other performance security entered into or obtained in connection with the Project (Lot 23). The Lessee (Lot 23) represents, warrants, covenants and agrees, subject to Section 9.1 hereof, that it will substantially complete the Project (Lot 23), or cause the Project (Lot 23) to be substantially completed, by December 31, 2004, in a time and manner consistent with the covenants of the City Deed, in a first class workerlike manner, free of defects in materials and workmanship (including latent defects); **provided, however**, the Lessee (Lot 23) may revise the scope of the Project (Lot 23), subject to the prior written consent of the Agency (which consent shall not be unreasonably withheld, delayed or conditioned). In undertaking the Project (Lot 23), the Lessee (Lot 23), as agent of the Agency, shall take such action and institute such

proceedings as shall be necessary to cause and require all contractors, manufacturers and suppliers to complete their agreements relating to the Project (Lot 23) in accordance with the terms of the contracts therefor including, without limitation, the correction of any materially defective work. The cost of the Project (Lot 23) shall be financed from (i) the Mortgage Loan and (ii) equity furnished by the Lessee (Lot 23) and/or IAC to the extent such funds shall be necessary to cover costs of the Project (Lot 23) which exceed such other sources of funds. In the event that moneys derived from such other sources are not sufficient to pay the costs necessary to complete the Project (Lot 23) in full, the Lessee (Lot 23) shall pay or cause to be paid that portion of such costs of the Project (Lot 23) as may be in excess of the moneys derived from such sources and shall not be entitled to any reimbursement therefor from the Agency, nor shall the Lessee (Lot 23) be entitled to any diminution of the Rental Payments to be made under this Agreement. The New York City Economic Development Corporation shall be a third party beneficiary of the covenant and obligation of the Lessee (Lot 23) to substantially complete, or cause to be substantially completed, the Project (Lot 23) in a time and manner consistent with the City Deed.

(b) The Lessee (Lot 23) shall pay (i) all of the costs and expenses in connection with the preparation of any instruments of conveyance, the delivery thereof and of any instruments and documents relating thereto and the filing and recording of any such instruments of conveyance or other instruments or documents, if required, (ii) all taxes and charges payable in connection with the conveyance and transfer, or attributable to periods prior to the conveyance and transfer, to the Agency as set forth in Section 2.1 hereof, and (iii) all shipping and delivery charges and other expenses or claims incurred in connection with the Project (Lot 23).

(c) The Lessee (Lot 23) unconditionally represents, warrants, covenants and agrees that it will obtain or cause to be obtained all necessary approvals from any and all governmental agencies requisite to the Project (Lot 23) and operation of the Facility (Lot 23), all of which will be done in compliance with all Federal, State and local laws, ordinances and regulations applicable thereto, and with the conditions and requirements of all policies of insurance with respect to the Facility (Lot 23) and this Agreement. Promptly upon completion of the Project (Lot 23), the Lessee (Lot 23) will obtain or cause to be obtained all required occupancy permits, authorizations and licenses from appropriate authorities, if any be required, authorizing the occupancy, operation and use of the Facility (Lot 23) for the purposes contemplated by this Agreement and shall furnish copies of same to the Agency within sixty (60) days following the receipt thereof. At the sole cost and expense of the Lessee (Lot 23), the Agency will, upon reasonable request by the Lessee (Lot 23), reasonably cooperate to the extent necessary to enable the Lessee (Lot 23) to obtain any such occupancy permits, authorizations and licenses.

(d) Within sixty (60) days following the date of completion of the Project (Lot 23), the Lessee (Lot 23) shall evidence completion of the Project (Lot 23) by delivering to the Agency a certificate of an Authorized Representative of the Lessee (Lot 23) in substantially the form set forth in Schedule A attached hereto, together with all attachments required thereunder.

Upon request by the Agency, the Lessee (Lot 23) shall make available to the Agency copies of any bills, invoices or other evidences of costs as shall have been incurred in the effectuation of the Project (Lot 23).

Section 2.3 Title Insurance. On or prior to the Commencement Date, the Lessee (Lot 23) will obtain and deliver to the Agency (a) a fee title insurance policy in an amount not less than \$250,000 insuring the Agency's fee simple interest in each of the Land (Lot 23) and the Improvements (Lot 23) against loss as a result of defects in title, subject only to Permitted Encumbrances, and (b) a current survey of each of the Land (Lot 23) and the Improvements (Lot 23) certified to the Lessee (Lot 23), the title company issuing such title insurance policy and the Agency. Any proceeds of such fee title insurance shall be paid to the Lessee (Lot 23) and applied by the Lessee (Lot 23) to remedy the applicable defect in title in respect of which such proceeds shall be derived. If not so capable of being applied or if a balance remains after such application, the proceeds or the remaining balance of proceeds, as the case may be, derived from any such title insurance policy insuring the Agency's fee title interest shall be applied to the payment of any Rental Payments due hereunder; and any balance thereafter may be used by the Lessee (Lot 23) for any corporate purpose.

Section 2.4 Limitation on Sales Tax Exemption. (a) Any exemption from Sales Taxes resulting from or occasioned by the Agency's involvement with the Project (Lot 23) shall be limited to purchases of Exempt Property effected by the Lessee (Lot 23) as agent for the Agency, it being the intent of the parties that no operating expenses of the Lessee (Lot 23) and no purchases of equipment or other personal property (other than Exempt Property) shall be subject to an exemption from Sales Taxes because of the Agency's involvement with the Project (Lot 23).

(b) The Lessee (Lot 23) covenants and agrees that it shall include the following language (through an attached rider or otherwise) in and as part of each contract, invoice, bill or purchase order entered into by the Lessee (Lot 23) as agent for the Agency for which Sales Tax Savings are being sought in connection with the Project (Lot 23):

"This [contract, invoice, bill or purchase order] is being entered into by IAC New York-IV L.L.C., a Delaware limited liability company (the "Agent"), as agent for and on behalf of the New York City Industrial Development Agency (the "Agency") in connection with a certain project of the Agency for the Agent consisting of the acquisition of a 7.386 acre parcel of land and the construction thereon of a building of approximately 141,782 square feet, all for the leasing thereof to one or more tenants for use in the warehousing and distribution of air cargo and the intermodal transportation industry and ancillary office uses and other ancillary commercial uses related thereto, to be located on 230-79 International Airport Center Boulevard, Jamaica, New York (the "Project (Lot 23)"). The building materials and fixtures (excluding trade fixtures) to be used for the Project (Lot 23) which is the subject of this [contract, agreement, invoice, bill or purchase order] shall be exempt from the sales and use

tax levied by the State of New York and The City of New York if effected in accordance with the terms and conditions set forth in the attached Sales Tax Letter of the Agency, and the Agent hereby represents that this [contract, agreement, invoice, bill or purchase order] is in compliance with the terms of the Sales Tax Letter. This [contract, agreement, invoice, bill or purchase order] is nonrecourse to the Agency, and the Agency shall not be directly or indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever, and the Agent shall be the sole party liable hereunder. By execution or acceptance of this [contract, agreement, invoice, bill or purchase order], the [vendor or contractor] hereby acknowledges and agrees to the terms and conditions set forth in this paragraph."

If the Lessee (Lot 23) shall fail to include, incorporate by reference or otherwise cause the contract, agreement, invoice, bill or purchase order to be, together with the vendor or contractor, subject to the above applicable language in substantially the above form, such contract, agreement, invoice, bill or purchase order shall not be an undertaking on behalf of the Agency and shall not be entitled to any of the benefits able to be conferred by the Agency, and the Lessee (Lot 23) shall not claim any sales or use tax benefits or exemptions with respect to any such contract, agreement, invoice, bill or purchase order and the Lessee (Lot 23) shall return to the Agency any such benefits or exemptions so taken, together with interest on such amount at the rate of eighteen percent (18%) per annum, from the date of such taking.

(c) On the Commencement Date, the Agency shall make available to the Lessee (Lot 23) the Sales Tax Letter (Lot 23). The Agency, at the sole cost and expense of the Lessee (Lot 23), shall also execute such other authorizations, letters and documents (and such amendments to the Sales Tax Letter (Lot 23)) as may be reasonably necessary to permit the Lessee (Lot 23) to obtain the intended benefits hereunder. Subject to the terms of this Agreement, it is intended that the aggregate scope of the sales and use tax benefits received by the Lessee (Lot 23) pursuant to this Agreement and the Sales Tax Letter (Lot 23) shall be limited in both duration and amount as follows:

(i) The Sales Tax Letter (Lot 23) shall be dated the Commencement Date and shall be effective for a term commencing on its date and expiring upon the earliest of (1) the termination of this Agreement, (2) December 31, 2004, (3) the completion of the Project (Lot 23) as provided in Section 2.2 hereof, (4) the termination of the Sales Tax Letter (Lot 23) pursuant to Section 7.2 hereof, and (5) the realization by the Lessees of the Maximum Sales Tax Savings pursuant to the Sales Tax Letters with respect to the Overall Project.

(ii) The authorizations set forth in the Sales Tax Letter (Lot 23) shall automatically be suspended twenty (20) days after notice to the Lessee (Lot 23) that the Lessee (Lot 23), any Other Lessee or IAC shall be in default under this Agreement or any

other Project Document until the Lessee (Lot 23), such Other Lessee or IAC shall pay any amounts due, and perform all of its obligations, with respect to any such default.

(iii) The sales and use tax exemption to be provided pursuant to the Sales Tax Letter (Lot 23)

(A) shall not be available for payment of any costs, other than the costs of the Exempt Property, or for any items of personalty,

(B) shall only be utilized for items of Exempt Property which shall be purchased, completed or installed for use only by the Lessee (Lot 23) and Facility Tenants (Lot 23) at the Facility (Lot 23) (and not with any intention to sell, transfer or otherwise dispose of any such items of Exempt Property to a Person as shall not constitute the Lessee (Lot 23)), it being the intention of the Agency and the Lessee (Lot 23) that the sales and use tax exemption shall not be made available with respect to any item of Exempt Property unless such item is used solely by the Lessee (Lot 23) and Facility Tenants (Lot 23) at the Facility (Lot 23),

(C) shall not be available for any date subsequent to which the Sales Tax Letter (Lot 23) shall have been suspended as provided in Section 2.4(c)(ii) hereof; provided, however, that in the event the Lessee (Lot 23) shall thereafter cure any defaults under this Agreement or any other Project Document, or the Agency shall thereafter waive such suspension, as applicable, the sales and use tax exemption shall again continue from the date of such cure or such waiver,

(D) shall not be available for or with respect to any item of rolling stock or water craft, or tangible personal property having a useful life of less than one year, and shall be available only if purchased by the Lessee (Lot 23) as agent for the Agency for use by the Lessee (Lot 23) and Facility Tenants (Lot 23) for incorporation within the Facility (Lot 23),

(E) shall not be available for any tangible movable personal property or trade fixtures,

(F) shall not be available for any item the acquisition or leasing of which would otherwise be exempt from Sales Taxes absent the involvement by the Agency,

(G) shall not be available for any cost of utilities, cleaning service or supplies,

(H) shall not be available subsequent to the termination of this Agreement, and

(I) shall only be available for those costs set forth in Exhibit A to the Sales Tax Letter.

(iv) In the event that the Lessee (Lot 23) shall utilize the sales or use tax exemption authorization provided pursuant to the Sales Tax Letter (Lot 23) in violation of the provisions of Section 2.4(c)(iii) hereof, the Lessee (Lot 23) shall promptly deliver notice of same to the Agency, and the Lessee (Lot 23) shall, upon demand by the Agency, pay to the Agency a return of sales or use tax exemptions in an amount equal to all such unauthorized sales or use tax exemptions together with interest at the rate of eighteen percent (18%) per annum from the date and with respect to the dollar amount for which each such unauthorized sales or use tax exemption was availed of by the Lessee (Lot 23).

(v) Upon request by the Agency of, and reasonable notice to the Lessee (Lot 23), the Lessee (Lot 23) shall make available at reasonable times to the Agency and the Independent Accountant all such books and records of the Lessee (Lot 23) and require all appropriate officers and employees of the Lessee (Lot 23) to respond to reasonable inquiries by the Agency and the Independent Accountant, as shall be necessary to indicate in reasonable detail those costs for which the Lessee (Lot 23) shall have utilized the Sales Tax Letter (Lot 23) and the dates and amounts so utilized.

(d) The Lessee (Lot 23) shall observe and comply with the terms and conditions of the Sales Tax Letter (Lot 23), and upon the termination, expiration or cancellation of the Sales Tax Letter (Lot 23), the Lessee (Lot 23) shall promptly surrender the same to the Agency.

(e) If and for so long as the same shall be required by law, the Lessee (Lot 23) shall annually (currently, by each February 15 with respect to the prior calendar year) file a statement (Form ST-340, attached hereto as Exhibit C, or any successor or additional mandated form) with the New York State Department of Taxation and Finance, on a form and in a manner and consistent with such regulations as is or may be prescribed by the Commissioner of the New York State Department of Taxation and Finance, of the value of all sales and use tax exemptions claimed by the Lessee (Lot 23) or agents of the Lessee (Lot 23) in connection with the Project (Lot 23) and the Facility (Lot 23) as required by Section 874(8) of the New York State General Municipal Law (as the same may be amended from time to time), including, but not limited to, consultants or subcontractors of such agents, under the authority granted pursuant to this Agreement. The Lessee (Lot 23) shall furnish a copy of such annual statement to the Agency at the time of filing with the Department of Taxation and Finance. Should the Lessee (Lot 23) fail to comply with the foregoing requirement, the Lessee (Lot 23) shall immediately cease to be the agent for the Agency in connection with the Project (Lot 23) (such agency relationship being deemed to be immediately revoked) without any further action of the parties (subject to any rights of the Lessee (Lot 23) under applicable law to cure the revocation of its agent status), the Lessee (Lot 23) shall be deemed to have automatically lost its authority as agent of the Agency to purchase and/or lease Exempt Property in the Agency's behalf, and shall desist immediately from all such activity, and shall immediately and upon demand return to the Agency the Sales Tax Letter (Lot 23) issued to the Lessee (Lot 23) by the Agency which is in the Lessee (Lot 23)'s possession or in the possession of any agent of the Lessee (Lot 23). Nothing herein

shall be construed as a representation by the Agency that any property acquired as part of the Project (Lot 23) is or shall be exempt from sales taxes or use taxes under the laws of the State.

(f) The Lessee (Lot 23) agrees to submit to the Agency on August 1 of each year a completed Benefits Report in the form of Schedule B attached hereto to the extent that the Lessee (Lot 23) shall have received Sales Tax Savings during the twelve-month period ending on the June 30 immediately preceding such August 1.

ARTICLE III

LEASE OF FACILITY (Lot 23) AND RENTAL PROVISIONS

Section 3.1 Lease of the Facility (Lot 23). (a) The Agency hereby leases to the Lessee (Lot 23), and the Lessee (Lot 23) hereby leases from the Agency, the Facility (Lot 23) for and during the term herein and subject to the terms and conditions herein set forth. The Agency hereby delivers to the Lessee (Lot 23), and the Lessee (Lot 23) hereby accepts, sole and exclusive possession of the Facility (Lot 23) (it being understood by the parties hereto that delivery of possession to the Lessee (Lot 23) of the Facility (Lot 23) as the same is acquired and renovated shall take no further act or deed by the parties hereto).

(b) The Lessee (Lot 23) hereby unconditionally represents, warrants, covenants and agrees that throughout the term of this Agreement (i) the Facility (Lot 23) will be an Approved Facility (Lot 23) and a "project" within the meaning of the Act; (ii) the Lessee (Lot 23) will not take any action, or suffer or permit any action (whether by a Facility Tenant (Lot 23) or other Person), if such action would cause the Facility (Lot 23) not to be an Approved Facility (Lot 23) or a "project" within the meaning of the Act; and (iii) the Lessee (Lot 23) will not fail to take any action, or suffer or permit the failure to take any action, if such failure would cause the Facility (Lot 23) not to be an Approved Facility (Lot 23) or a "project" within the meaning of the Act. The Lessee (Lot 23) shall not occupy, use or operate the Facility (Lot 23), or allow the Facility (Lot 23) or any part thereof to be occupied, used or operated (whether by a Facility Tenant (Lot 23) or other Person), for any unlawful purpose or in violation of any certificate of occupancy affecting the Facility (Lot 23) or for any use which may constitute a nuisance, public or private, or make void or voidable any insurance then in force with respect thereto.

(c) The Lessee (Lot 23) hereby acknowledges that the specific nature of the use of the Facilities by the Facility Tenants and any other Persons is of essential importance to the Agency and the principal basis upon which the Agency is providing "financial assistance" (as defined in the Act) to the Overall Project. To this end, the Agency and the Lessee (Lot 23) hereby agree, and the Lessee (Lot 23) acknowledges that under the Remaining Lease Agreements the Agency and the Other Lessees are also agreeing, that, commencing upon the initial lease-up of the Facilities, and for all times thereafter during the term of the Lease Agreements:

- (i) the Facilities shall only be used for the Approved Uses;
- (ii) at least seventy-five percent (75%) of the Total Occupied Space shall be for Industrial Use;
- (iii) no more than twenty-five percent (25%) of the Total Occupied Space shall be for Office Use; provided that, any Retail Use shall be included in this twenty-five percent (25%) Office Use limitation; and

(iv) no more than five percent (5%) of the Total Occupied Space shall be for Retail Use.

The above limitations on the use of the Facilities is referred to as the "Limitation on Use of the Facilities".

Section 3.2 Duration of Term. The term of this Agreement shall commence on the Commencement Date and shall expire on midnight (New York City time), June 30, 2027, or such earlier date as this Agreement may be terminated as hereinafter provided.

Section 3.3 Rental Provisions. (a) Base Rent. The Lessee (Lot 23) shall pay Base Rent to the Agency, without demand or notice, on the Commencement Date in the amount of \$1.00, which shall constitute the entire amount of Base Rent payable hereunder.

(b) Additional Rent. Throughout the term of this Agreement, the Lessee (Lot 23) shall pay to the Agency (except as otherwise provided in Section 4.3 hereof) any additional amounts required to be paid by the Lessee (Lot 23) to or for the account of the Agency hereunder, and any such additional amounts shall be paid as, and shall represent payment of, Additional Rent.

(c) Missed Payments. In the event the Lessee (Lot 23) should fail to make or cause to be made any of the Rental Payments required under the foregoing provisions of this Section, the item or installment not so paid shall continue as an obligation of the Lessee (Lot 23) until the amount not so paid has been paid in full, together with interest thereon from the date due at the applicable interest rate stated in this Agreement where so provided, or if not so provided, at eighteen percent (18%) per annum.

Section 3.4 Rental Payments Payable Absolutely Net. The obligation of the Lessee (Lot 23) to pay Rental Payments provided for in this Agreement shall be absolutely net to the Agency without any abatement, recoupment, diminution, reduction, deduction, counterclaim, set-off or offset whatsoever, so that this Agreement shall yield, net, to the Agency, the Rental Payments provided for herein, and all costs, expenses and charges of any kind and nature relating to the Facility (Lot 23), arising or becoming due and payable during or after the term of this Agreement, shall be paid by the Lessee (Lot 23) and the Agency shall be indemnified by the Lessee (Lot 23) for, and the Lessee (Lot 23) shall hold the Agency harmless from, any such costs, expenses and charges.

Section 3.5 Nature of Obligation of Lessee (Lot 23) Unconditional. The obligations of the Lessee (Lot 23) under this Agreement to pay Rental Payments shall be absolute, unconditional and general obligations, and irrespective of any defense or any rights of set-off, recoupment or counterclaim or deduction and without any rights of suspension, deferment, diminution or reduction it might otherwise have against the Agency or any other Person and the obligation of the Lessee (Lot 23) shall arise whether or not the Project (Lot 23) has been completed as provided in this Agreement. The Lessee (Lot 23) will not suspend or discontinue payment of any Rental Payment due and payable hereunder or performance or observance of any covenant or agreement required on the part of the Lessee (Lot 23) hereunder for any cause whatsoever, and the

Lessee (Lot 23) waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction in the Rental Payments hereunder.

ARTICLE IV**MAINTENANCE, TAXES, PAYMENTS IN LIEU OF TAXES
AND INSURANCE**

Section 4.1 Maintenance, Alterations and Improvements. (a) During the term of this Agreement, the Lessee (Lot 23) will keep the Facility (Lot 23), or cause the Facility (Lot 23) to be kept, in good and safe operating order and condition, ordinary wear and tear excepted, will occupy, use and operate the Facility (Lot 23), or cause the Facility (Lot 23) to be occupied, used and operated, in the manner for which it was intended and contemplated by this Agreement, and will make or cause to be made all replacements, renewals and repairs thereto (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen) necessary to ensure that the operations of the Lessee (Lot 23) and of the Facility Tenants (Lot 23) at the Facility (Lot 23) shall not be materially impaired or diminished in any way. All replacements, renewals and repairs shall be equal in quality, class and value to the original work and be made and installed in compliance with all Legal Requirements. The Agency shall be under no obligation to replace, service, test, adjust, erect, maintain or effect replacements, renewals or repairs of the Facility (Lot 23), to effect the replacement of any inadequate, obsolete, worn-out or unsuitable parts of the Facility (Lot 23), or to furnish any utilities or services for the Facility (Lot 23), and the Lessee (Lot 23) hereby agrees to assume full responsibility therefor.

(b) The Lessee (Lot 23) shall have the privilege of making such alterations of or additions to the Facility (Lot 23) or any part thereof from time to time as it in its discretion may determine to be desirable for its uses and purposes, provided that

(i) as a result of such alterations or additions, the fair market value or the utility of the Facility (Lot 23) to one or more Facility Tenants (Lot 23) or prospective Facility Tenants (Lot 23) is not reduced below its value or utility immediately before such alteration or addition and the structural integrity of the Facility (Lot 23) is not materially impaired,

(ii) such additions or alterations are effected with due diligence, in a good and workmanlike manner and in compliance with all applicable Legal Requirements,

(iii) such additions or alterations are promptly and fully paid for by the Lessee (Lot 23) in accordance with the terms of the applicable contract(s) therefor, and in order that the Facility (Lot 23) shall at all times be free of any mortgage, lien, charge, encumbrance, security interest or claim other than Permitted Encumbrances, and

(iv) such additions or alterations do not change the nature of the Facility (Lot 23) so that it would not constitute an Approved Facility (Lot 23) and a "project" within the meaning of the Act.

All alterations of and additions to the Facility (Lot 23) shall constitute a part of the Facility (Lot 23), subject to this Agreement, and the Lessee (Lot 23) shall deliver or cause to be delivered to the

Agency appropriate documents as may be necessary to convey title to such property to the Agency and to subject such property to this Agreement, free and clear of all liens, charges, encumbrances, security interests or claims other than Permitted Encumbrances (subject to the right of the Lessee (Lot 23) to contest Liens as provided in Section 6.5(b) hereof).

(c) The Lessee (Lot 23) shall have the right to install or permit to be installed at the Facility (Lot 23), machinery, equipment and other personal property at the cost and expense of the Lessee (Lot 23) (the "**Lessee Property (Lot 23)**") without conveying title to such property to the Agency nor subjecting such property to this Agreement. The Lessee Property (Lot 23) shall not constitute part of the Facility (Lot 23) leased hereunder. The Agency shall not be responsible for any loss of or damage to the Lessee Property (Lot 23). The Lessee (Lot 23) shall have the right to create or permit to be created any mortgage, encumbrance, lien or charge on, or conditional sale or other title retention agreement with respect to, the Lessee Property (Lot 23), without the consent of or notice to the Agency.

(d) The Lessee (Lot 23) shall not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against the Facility (Lot 23) or any part thereof, or the interest of the Agency or the Lessee (Lot 23) in the Facility (Lot 23) or this Agreement except for Permitted Encumbrances.

(e) To the extent required by the New York State Finance Law Section 137, prior to executing any contract with any party for any improvement (as such term is defined in the New York Lien Law) in connection with the Project (Lot 23) or the Facility (Lot 23) or the provision of any goods or services in connection therewith, and prior to authorizing any party to undertake such improvement (or the provision of such goods and services) without an executed contract, the Lessee (Lot 23) shall deliver to the Agency a copy of the proposed contract therefor along with a bond, in compliance with New York State Finance Law Section 137 and otherwise satisfactory to the Agency, guaranteeing prompt payment of monies due all persons furnishing labor or materials for the contractor or his subcontractor in the prosecution of his work provided for in such contract. The Agency shall have no liability or responsibility for the cost of such bond(s). Should the Lessee (Lot 23) fail to comply with the foregoing requirement, the Lessee (Lot 23) shall immediately cease to be the agent for the Agency in connection with the Project (Lot 23) (such agency relationship being deemed to be immediately revoked), subject to waiver by the Agency in its discretion.

Section 4.2 Removal of Property of the Facility (Lot 23). (a) The Lessee (Lot 23) shall have the privilege from time to time of removing from the Facility (Lot 23) any fixture constituting part of the Facility (Lot 23) (the "**Existing Facility Property**") and thereby acquiring such Existing Facility (Lot 23) Property, **provided, however,** such Existing Facility (Lot 23) Property is substituted or replaced by property (t) having equal or greater fair market value, operating efficiency and utility and (u) being free of all mortgages, liens, charges, encumbrances, claims and security interests other than Permitted Encumbrances, and no such removal shall be effected if (w) such removal is to another location other than the Facility (Lot 23), (x) such removal would change the nature of the Facility (Lot 23) as an Approved Facility (Lot 23) and a "project" within the meaning of the Act, (y) such removal would impair the usefulness, structural integrity or operating

efficiency of the Facility (Lot 23), or (z) such removal would materially reduce the fair market value of the Facility (Lot 23) below its value immediately before such removal.

(b) The Lessee (Lot 23) shall deliver or cause to be delivered to the Agency any necessary documents conveying to the Agency title to any property installed or placed upon the Facility (Lot 23) pursuant to Section 4.2(a) hereof and subjecting such substitute or replacement property to this Agreement, and upon written request of the Lessee (Lot 23), the Agency shall deliver within thirty (30) days after receipt of such written request of the Lessee (Lot 23), to the Lessee (Lot 23) appropriate documents conveying to the Lessee (Lot 23) all of the Agency's right, title and interest in any property removed from the Facility (Lot 23) pursuant to Section 4.2(a) hereof. The Lessee (Lot 23) agrees to pay all costs and expenses (including reasonable counsel fees) incurred by the Agency in subjecting to this Agreement any property installed or placed on the Facility (Lot 23) as part of the Facility (Lot 23) pursuant to this Section 4.2 or Section 4.1 hereof.

(c) The removal from the Facility (Lot 23) of any Existing Facility (Lot 23) Property pursuant to the provisions of Section 4.2(a) hereof shall not entitle the Lessee (Lot 23) to any abatement or reduction in the Rental Payments payable by the Lessee (Lot 23) under this Agreement.

Section 4.3 Payment in Lieu of Real Estate Taxes.

(a) *Description and Address of Project (Lot 23):*

The Project (Lot 23) consists of the acquisition and construction by the Agency of a warehousing, distribution and commercial facility in Jamaica, New York, consisting of the acquisition of a 7.386 acre parcel of land and the construction of a building of approximately 141,782 square feet thereon, all for use as an Approved Facility (Lot 23). The Facility (Lot 23) is located at 230-79 International Airport Center Boulevard, Jamaica, New York, being Section 4, Block 13791 and Tentative Lot 23.

(b) *Payments Prior to PILOT Commencement Date:*

The PILOT Commencement Date shall be July 1, 2002. Until the PILOT Commencement Date, or such later date as the Facility (Lot 23) is determined to be exempt from real estate taxes, the Lessee (Lot 23) shall pay to the City all real estate taxes with respect to the Facility (Lot 23) at such times, in such manner and in such amounts as would be applicable if the Facility (Lot 23) were owned by the Lessee (Lot 23) and not owned by the Agency.

(c) *Payments in Lieu of Real Estate Taxes, Generally:*

It is recognized that under the provisions of the Act the Agency is required to pay no real estate taxes upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities. The Agency and the Lessee (Lot 23) agree, however, that the Lessee (Lot 23) shall be required to make payments in lieu of real estate taxes with respect to the

Facility (Lot 23), payable to The Bank of New York, as PILOT Depository (or to such other Person as the Agency shall direct the Lessee (Lot 23) in writing), in installments aggregating the full amounts due at least seven (7) Business Days before such times as real estate taxes are due the City or at such other times as the Agency may designate in writing. Except as otherwise provided below in this Section 4.3, the Lessee (Lot 23) shall make payments in lieu of real estate taxes (i) with respect to the Land (Lot 23) constituting part of the Facility (Lot 23), in the amounts as determined in subsection (d) below, and (ii) with respect to the Improvements (Lot 23) constituting part of the Facility (Lot 23), in the amounts as determined in subsections (e) and (f) below.

The Agency makes no representation as to the availability of an exemption from real estate taxes for the Facility (Lot 23) in the event that the Department of Finance, Assessors' Office of the City, the City Surveyor, or any other relevant official of the City fails to recognize the Agency's exemption from real estate taxes on the basis of a discrepancy existing between the Facility (Lot 23) and the tax map of The City of New York or the existence of another impediment to implementation of the Agency's exemption contemplated hereunder.

The Lessee (Lot 23) shall take such action as is reasonably necessary in order to correct any defect or deficiency which may prevent the Facility (Lot 23) from being recognized as exempt by the City. The Lessee (Lot 23) acknowledges that the Agency has not represented the availability of any such exemption for the Facility (Lot 23), and the Lessee (Lot 23) hereby releases the Agency from any claim arising from any loss of the benefits which were contemplated hereunder.

The Lessee (Lot 23) acknowledges that the PILOT Commencement Date will not be deferred notwithstanding any loss of benefits contemplated hereunder in the event that the City does not recognize the Agency's exemption from real estate taxes on the PILOT Commencement Date.

(d) *Payments in Lieu of Taxes on the Project Land :*

For the period commencing on the PILOT Commencement Date and terminating on the earliest to occur of (i) June 30, 2027 (the "PILOT Expiration Date"), or (ii) the date on which the Agency no longer owns the Facility (Lot 23) Realty, or (iii) the date on which this Agreement is terminated if termination occurs prior to the PILOT Expiration Date (such earliest date to be hereinafter referred to as the "PILOT Termination Date"), the Lessee (Lot 23) shall, in accordance with Section 4.3(g) hereof, make payments in lieu of real estate taxes, in accordance with Section 4.3(g) hereof, with respect to the Project Land (inclusive of the Land (Lot 23)) (subject to Section 4.3(i) hereof) only to the extent that (y) Full Project Land Taxes in the respective tax fiscal year of the City shall exceed the following, and (z) amounts shall not be paid by the Other Lessees for such purpose under the Remaining Lease Agreements:

YEAR	MAXIMUM LAND TAX ABATEMENT
July 1, 2002 - June 30, 2005	\$555,000
July 1, 2005 - June 30, 2023	Adjusted Land Tax Abatement
July 1, 2023 - June 30, 2024	Adjusted Land Tax Abatement x 80%
July 1, 2024 - June 30, 2025	Adjusted Land Tax Abatement x 60%
July 1, 2025 - June 30, 2026	Adjusted Land Tax Abatement x 40%
July 1, 2026 - June 30, 2027	Adjusted Land Tax Abatement x 20%

Adjusted Land Tax Abatement shall mean the lesser of : (i) \$620,000; and (ii) the product of \$500 and the Annual Average Number of Facility Tenant Employees (hereinbelow defined) for the twelve month period (or lesser period as set forth in the next paragraph) expiring on May 31, 2005.

Annual Average Number of Facility Tenant Employees shall mean, for the 12 month period commencing on June 1, 2005 and ending on May 31, 2006, the annual average number of Facility Tenant Employees determined by dividing (i) the sum of the average number of Facility Tenant Employees with respect to the Overall Project employed on the last payroll date of each month during such 12-month period, by (ii) twelve (12). In the event that the Overall Project is not completed prior to June 1, 2005 in order for the Facilities to be occupied by Facility Tenants for the entire twelve (12)-month period ending May 31, 2005, then, the "Annual Average Number of Facility Tenant Employees" shall be determined by dividing (1) the sum of the average number of Facility Tenant Employees employed on the last payroll date of each month during such period, by (2) the number of months in such period (but not less than 6 months).

City Tax Fiscal Year shall mean each annual period commencing on July 1, and ending on the immediately succeeding June 30, or such other annual period as shall be established by lawful authority as the City's "tax fiscal year" or its equivalent.

Full Project Land Taxes shall mean that amount of taxes with respect to the Project Land (including the Land (Lot 23)) constituting part of the Facilities as the Lessees would otherwise be required to pay from time to time if any were the owner of the Project Land.

The Lessee (Lot 23) shall deliver to the Agency, by no later than June 15, 2006, a certificate of an Authorized Representative of the Lessee (Lot 23) certifying as to the Annual Average Number of Facility Tenant Employees, both in the aggregate and on a per Facility basis (the "Facility Tenant Employee Certificate"). Any failure of the Lessee (Lot 23) to deliver the Facility Tenant Employee Certificate by July 1, 2006 (or such later date to which the Agency shall consent) shall be a default under this Agreement.

It is acknowledged by the Agency and the Lessee (Lot 23) that the land tax abatements to be provided to the Lessees assume that all four (4) Facilities will continue to be owned by the Agency and subject to this Agreement and the Remaining Lease Agreements. In the event, however, that one or more of the Facilities shall cease to be owned by the Agency (and thereby no longer subject to a Remaining Lease Agreement, the "**Removed Facility**") during the term of this Agreement, then the Adjusted Land Tax Abatement shall thereafter be permanently reduced by a fraction the numerator of which shall be the number of Facility Tenant Employees attributable to the Removed Facility as set forth in the Facility Tenant Employee Certificate, and the denominator of which shall be the Annual Average Number of Facility Tenant Employees set forth in such Certificate.

For the period commencing on the PILOT Expiration Date until the date on which the Agency no longer owns the Facility (Lot 23), the Lessee (Lot 23) shall make payments in lieu of real estate taxes equal to Full Project Land Taxes with respect to the Project Land, less any amounts paid with respect thereto by the Other Lessees.

If the PILOT Termination Date has occurred for reasons other than the Agency no longer being in title to the Project Land, for the period commencing on such PILOT Termination Date until the date on which the Agency no longer has title to the Project Land, the Lessee (Lot 23) shall make payments in lieu of real estate taxes on the Project Land equal to Full Project Land Taxes, less any amounts paid with respect thereto by the Other Lessees.

(e) *Payments in lieu of Taxes on the Improvements (Lot 23):*

For the period commencing on the PILOT Commencement Date and terminating on the PILOT Termination Date, the Lessee (Lot 23) shall make, in accordance with Section 4.3(g) hereof, and subject to Section 4.3(i) hereof, the following payments in lieu of real estate taxes on the Improvements (Lot 23) constituting part of the Facility (Lot 23):

- (1) from the PILOT Commencement Date through June 30, 2023, an amount equal to the lesser of CRET (i.e., Current Real Estate Taxes), and STRET (i.e., Stabilized Real Estate Taxes); and
- (2) from July 1, 2023, through the PILOT Termination Date, and assuming CRET is greater than STRET for the fiscal years occurring within such period, the following amounts as respectively calculated for the following years:

YEAR	LESSEE (Lot 23) PAYS:
July 1, 2023 - June 30, 2024	STRET + [CRET less STRET x 0.2]
July 1, 2024 - June 30, 2025	STRET + [CRET less STRET x 0.4]
July 1, 20245- June 30, 2026	STRET + [CRET less STRET x 0.6]
July 1, 2026 - June 30, 2027	STRET + [CRET less STRET x 0.8]

Provided, however, that if any fiscal year occurring within the period commencing July 1, 2023, through June 30, 2027, CRET is equal to or less than STRET, then the payment in lieu of real estate taxes on the Improvements (Lot 23) for such fiscal year shall equal CRET.

Certain terms used in the above formula are defined as follows:

CRET or "Current Real Estate Taxes" shall mean the then-current assessed value of Improvements (Lot 23) multiplied by the City's then-current real estate tax rate, as if the Facility (Lot 23) were owned by the Lessee (Lot 23) rather than the Agency.

STRET or "Stabilized Real Estate Taxes" shall mean the assessed value of the Improvements (Lot 23) as of May 25, 2001 multiplied by the City's tax rate as of July 1, 2001.

If the PILOT Termination Date has occurred for reasons other than the Agency being no longer in title to the Facility (Lot 23), for the period commencing on such PILOT Termination Date until the date on which the Agency no longer has title to the Facility (Lot 23), the Lessee (Lot 23) shall make payments in lieu of real estate taxes on the Improvements (Lot 23) equal to CRET.

(f) *Subsequent Alterations and Improvements:*

If, at any time after completion of the Project (Lot 23), the Lessee (Lot 23) shall make any alterations of or additions to the Facility (Lot 23) ("Additional Improvements (Lot 23)"), the Lessee (Lot 23) shall: (i) deliver written notice to an Authorized Representative of the Agency of such Additional Improvements (Lot 23) within thirty (30) days after the completion thereof; and (ii) request that the Improvements (Lot 23) constituting a part of the Facility (Lot 23) (including any such Additional Improvement (Lot 23)) be reassessed by the appropriate officer or officers of the City; and (iii) make additional payments in lieu of real estate taxes in accordance with Section 4.3(g) hereof equal to:

- (1) the amount of increase in assessed valuation of the Facility (Lot 23) when the Additional Improvements (Lot 23) are first assessed as completed, **multiplied by**

- (2) the City's real property tax rate prevailing after such first assessment, and thereafter, **less**
- (3) *but only with respect to the Additional Improvements (Lot 23) and not with respect to any other portion of the Facility (Lot 23)*, any amount to which the Lessee (Lot 23) would be entitled as a result of the Additional Improvements being eligible under the Industrial and Commercial Incentive Program.
- (g) *General Payment Provisions:*

In order to provide for payments in lieu of real estate taxes payable pursuant to subsections (d), (e) and (f) above, the Lessee (Lot 23) agrees to pay on a date which is seven Business Days before January 1 and on a date which is seven Business Days before July 1 of every year to the PILOT Depository, or to such other representative of the Agency as the Agency may designate from time to time by written notice to the Lessee (Lot 23), by federal funds wire, clearinghouse wire, interbank exchange, certified check or bank draft payable at a bank in New York, New York, an installment payment equal to one-half of the payment in lieu of real estate taxes due for such year. The PILOT Depository shall deposit such installment payment to a special trust fund.

It is agreed that the Agency shall request the appropriate officer or officers of the City charged with the duty of levying and collecting real estate taxes, to submit to the Lessee (Lot 23) at the times the levies for such real estate taxes are made, a statement specifying the amounts and due dates for the payments in lieu thereof, so that the Lessee (Lot 23) may make such payments in the correct amounts and on a timely basis.

In the event the Lessee (Lot 23) or any Other Lessee shall fail to make any such installment payments, the amount or amounts so in default shall continue as an obligation of the Lessee (Lot 23) and the Other Lessees until fully paid, and the Lessee (Lot 23) agrees to pay the same to the PILOT Depository, or to such other representative of the Agency as the Agency may from time to time designate. The Lessee (Lot 23) shall pay a late payment penalty of five per cent (5%) of any amount which is not paid when due under this Section 4.3. In addition, for each month or part thereof that a payment under this Section 4.3 is delinquent beyond the first month, interest shall accrue and be payable by the Lessee (Lot 23) on the total amount due as provided above, plus a late payment penalty in the amount of one percent (1%) per month for each month or part thereof until the payment is made.

Nothing contained herein shall limit or impair the right of the Lessee (Lot 23), to the extent permitted by law, to obtain reductions in the valuation of the Facility (Lot 23) or the right to obtain exemptions (and discounts, if any) therefrom and to seek to obtain a refund of any such payments made.

(h) *Apportionment of Payments after Transfer:*

The Agency shall cause the Collector of the City to return the Facility (Lot 23) to the tax rolls as of the date of transfer of title out of the Agency and back to the Lessee (Lot 23). Subject to the paragraph immediately succeeding, the Lessee (Lot 23) and/or other subsequent owner of the Facility (Lot 23) during the fiscal year in which such transfer is made, shall be responsible for paying the real estate taxes due for the remaining portion of such fiscal year which follows transfer out of the Agency.

With respect to the semi-annual period of the fiscal year in which the Agency conveys title to the Facility (Lot 23) back to the Lessee (Lot 23), the Agency shall cause the Collector of the City to apportion that part of the installment payment in lieu of real estate taxes previously remitted for such semi-annual period (if any), which is attributable to the period commencing on the date of conveyance and ending on the June 30 or December 31 following (as the case may be), as a credit against the real estate taxes owed for such semi-annual period.

(i) *Withdrawal of Real Estate Tax Abatements:*

The Lessee (Lot 23) understands and agrees that the Lessee (Lot 23) is required to pay or cause to be paid, as additional payments in lieu of real estate taxes, the amount of taxes that the Lessee (Lot 23) would have been required to pay as if it were the owner of the Land (Lot 23) and Improvements (Lot 23) constituting the Facility (Lot 23) for that portion of the Facility (Lot 23), if any, utilized or occupied by any Person other than the Lessee (Lot 23), any Other Lessee or any Facility Tenant (Lot 23) for so long as such utilization or occupation shall continue. The Lessee (Lot 23) hereby represents to the Agency that no portion of the Facility (Lot 23) is utilized and occupied or is intended to be utilized or occupied by Persons other than the Lessee (Lot 23), any Other Lessee or any Facility Tenant (Lot 23), except as stated in Section 4.3(d) hereof. The Lessee (Lot 23) agrees that it shall promptly notify in writing the Agency or cause said written notice to be given in the event that there shall be any change in the portion of the Facility (Lot 23) utilized or occupied by any Person other than the Lessee (Lot 23), any Other Lessee or any Facility Tenant (Lot 23). The Lessee (Lot 23) understands and agrees that in such event, unless the Agency in its sole discretion shall determine otherwise, the amounts payable by the Lessee (Lot 23) as additional payments in lieu of taxes shall be adjusted to an amount equal to the amount of taxes that the Lessee (Lot 23) would have been required to pay as if it were the owner of the Facility (Lot 23) for that portion of the Facility (Lot 23) utilized or occupied by Persons other than the Lessee (Lot 23), any Other Lessee or any Facility Tenant (Lot 23) for so long as such utilization or occupation shall continue. The Lessee (Lot 23) further agrees to furnish the Agency with a certificate of an Authorized Representative of the Lessee (Lot 23) on January 1 of each year setting forth all Persons other than the Lessee (Lot 23), any Other Lessee or any Facility Tenant (Lot 23), if any, that shall be utilizing or occupying any portion of the Facility (Lot 23), the amount of space so occupied or utilized and the percentage of the available square footage of the Facility (Lot 23) represented by such occupation or utilization.

Commencing as of the date on which the Facility (Lot 23) is not used in accordance with the Act and this Agreement or upon the occurrence of an Event of Default under this Agreement or under any other Project Document, the Lessee (Lot 23) shall be required to make payments in lieu of real estate taxes on the Project Land and Improvements (Lot 23) in such amounts as would result from taxes levied on the Project Land and the Improvements (Lot 23) if the Project Land and the Improvements (Lot 23) were owned by the Lessee (Lot 23). For purposes of the determination of such payments in lieu of real estate taxes, the tax rate shall be the rate then in effect as shown on the records of the proper City department.

The Lessee (Lot 23) has advised the Agency that the Lessee (Lot 23) intends to submit an application for the Facility (Lot 23) to qualify for ICIP benefits. The Agency hereby consents to the processing of such ICIP application and agrees, at the sole cost of the Lessee (Lot 23), to reasonably cooperate with the Lessee (Lot 23) to the extent necessary for such purpose.

(j) *Survival of Obligations:*

The obligations of the Lessee (Lot 23) under this Section 4.3 shall survive the termination or expiration of this Agreement for any reason whatsoever. The Agency, in its sole discretion and in furtherance of the purposes of the Act, may waive, in whole or in part, payments in lieu of taxes set forth in this Section 4.3, for good cause shown.

Section 4.4 Taxes, Assessments and Charges. The Lessee (Lot 23) shall pay when the same shall become due all taxes (other than those taxes for which payments in lieu thereof are being paid pursuant to Section 4.3 hereof) and assessments, general and specific, if any, levied and assessed upon or against the Facility (Lot 23), this Agreement, any estate or interest of the Agency or the Lessee (Lot 23) in the Facility (Lot 23), or the Rental Payments or other amounts payable hereunder during the term of this Agreement, and all water and sewer charges, special district charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, ordinary or extraordinary, under any present or future law, and charges for public or private utilities or other charges incurred in the occupancy, use, operation, maintenance or upkeep of the Facility (Lot 23), all of which are herein called "**Impositions**". The Agency shall forward, as soon as practicable, to the Lessee (Lot 23) any notice, bill or other statement received by the Agency concerning any Imposition. The Lessee (Lot 23) may pay any Imposition in installments if so payable by law, whether or not interest accrues on the unpaid balance.

The Lessee (Lot 23) may at its sole expense contest (after prior written notice to the Agency), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Imposition, if (1) such proceeding shall suspend the execution or enforcement of such Imposition against the Facility (Lot 23) or any part thereof or interest therein, or in this Agreement, of the Agency or the Lessee (Lot 23) or against any of the Rental Payments payable under this Agreement, (2) neither the Facility (Lot 23) nor any part thereof or interest therein would be in any danger of being sold, forfeited or lost, (3) the Agency would not be in any danger of any criminal or any civil liability, other than normal accrual of interest, and the Lessee (Lot 23) would not be in any danger of any criminal liability, for failure to comply therewith,

and (4) the Lessee (Lot 23) shall have furnished such security, if any, as may be required in such proceedings or as may be reasonably requested by the Agency.

In the event the Facility (Lot 23) is exempt from Impositions (other than real estate taxes in respect of which amounts are payable under Section 4.3 hereof) solely due to the Agency's ownership of the Facility (Lot 23), the Lessee (Lot 23) shall pay all Impositions to the appropriate taxing authorities equivalent to the Impositions which would have been imposed on the Facility (Lot 23) if the Lessee (Lot 23) were the owner of record of the Facility (Lot 23).

Section 4.5 Insurance. (a) At all times throughout the term of this Agreement, including without limitation during any period of construction or reconstruction of the Facility (Lot 23), the Lessee (Lot 23) shall maintain or cause to be maintained insurance, with insurance companies authorized to do business in the State, against such risks, loss, damage and liability (including liability to third parties) and for such amounts as are customarily insured against by other enterprises of like size and type in comparable markets to that of the Lessee (Lot 23), including, without limitation:

(i) During any period of construction, renovation, improvement or reconstruction of the Facility (Lot 23) to the extent not covered by the public liability insurance referred to below, Owners & Contractors Liability insurance for the benefit of the Lessee (Lot 23) and the Agency in a minimum amount of \$25,000,000 aggregate coverage for personal injury and property damage;

(ii)(A) Property damage insurance and (B) during any period of construction, renovation, improvement or reconstruction of the Facility (Lot 23), Builders' All Risk insurance, whether by endorsement or otherwise, written on 100% builders' risk completed value, non-reporting form including coverage therein for completion and/or premises occupancy, all of which insurance shall in each case include coverage for removal of debris, insuring the buildings, structures, facilities, machinery, equipment, fixtures and other property constituting a part of the Facility (Lot 23) against loss or damage to the Facility (Lot 23) by fire, lightning, vandalism, malicious mischief and other casualties, with standard extended coverage endorsement covering perils of windstorm, hail, explosion, aircraft, vehicles and smoke (except as limited in the standard form of extended coverage endorsement at the time in use in the State) at all times in an amount such that the proceeds of such insurance shall be sufficient to prevent the Lessee (Lot 23) and the Agency from becoming a co-insurer of any loss under the insurance policies but in any event in amounts equal to not less than 80% of the actual replacement value of the Facility (Lot 23) as determined by a qualified insurance appraiser or insurer (selected by the Lessee (Lot 23) and approved by the Agency) not less often than once every year, at the expense of the Lessee (Lot 23); any such insurance may provide that the insurer is not liable to the extent of the first \$100,000 with the result that the Lessee (Lot 23) is its own insurer to the extent of \$100,000 of such risks;

(iii) Public liability insurance in accordance with customary insurance practices for similar operations with respect to the Facility (Lot 23) and the business thereby

conducted in a minimum amount of \$25,000,000, which insurance (A) will also provide coverage of (y) the indemnity obligations of the Master Guarantor under Section 3.1 of the Master Guaranty Agreement (other than the liability pursuant to Section 3.1(a)(i) and (v) thereof, and with respect to Section 3.1(c) thereof, only to the extent such insurance is reasonably available), and (z) the indemnity obligations of the Lessee (Lot 23) under Section 6.2 hereof (other than the liability pursuant to Section 6.2(a)(i) and (v) hereof, and with respect to Section 6.2(c) hereof, only to the extent such insurance is reasonably available), (B) may be effected under overall blanket or excess coverage policies of the Lessee (Lot 23) or any Affiliate, **provided, however**, that at least \$500,000 is effected by a comprehensive liability insurance policy, and (C) shall not contain provisions for a deductible amount;

(iv) Boiler and machine property damage insurance in respect of any steam and pressure boilers and similar apparatus located at the Facility (Lot 23) from risks normally insured against under boiler and machinery policies and in amounts and with deductibles customarily obtained for similar business enterprises and in each case approved by the Agency;

(v) Workers' compensation insurance, disability benefits insurance and such other forms of insurance which the Lessee (Lot 23) or the Agency is required by law to provide; and

(vi) Such other insurance in such amounts and against such insurable hazards as the Agency from time to time may reasonably require as set forth in a written notice from an Authorized Representative of the Agency submitted to an Authorized Representative of the Lessee (Lot 23).

(b) All insurance required by Section 4.5(a) above shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State.

(c) Each of the policies or binders evidencing the insurance required above to be obtained shall:

(i) designate (except in the case of workers' compensation insurance) the Lessee (Lot 23) and the Agency as additional insureds as their respective interests may appear;

(ii) provide that there shall be no recourse against the Agency for the payment of premiums or commissions or (if such policies or binders provide for the payment thereof) additional premiums or assessments;

(iii) provide that in respect of the interest of the Agency in such policies, the insurance shall not be invalidated by any action or inaction of the Lessee (Lot 23) or any

other Person and shall insure the Agency regardless of, and any losses shall be payable notwithstanding, any such action or inaction;

(iv) provide that such insurance shall be primary insurance without any right of contribution from any other insurance carried by the Agency to the extent that such other insurance provides the Agency with contingent and/or excess liability insurance with respect to its interest in the Facility (Lot 23);

(v) provide that if the insurers cancel such insurance for any reason whatsoever, including the insured's failure to pay any accrued premium, or the same is allowed to lapse or expire, or there be any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Agency until at least thirty (30) days after receipt by the Agency of written notice by such insurers of such cancellation, lapse, expiration, reduction or change;

(vi) waive any right of subrogation of the insurers thereunder against any Person insured under such policy, and waive any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any Person insured under such policy; and

(vii) contain such other terms and provisions as any owner or operator of facilities similar to the Facility (Lot 23) would, in the prudent management of its properties, require to be contained in policies, binders or interim insurance contracts with respect to facilities similar to the Facility (Lot 23) owned or operated by it in comparable markets.

(d) The Net Proceeds of any insurance received with respect to any loss or damage to the property of the Facility (Lot 23) shall be applied in accordance with Section 5.1 of this Agreement.

(e) As a condition to the execution and delivery of this Agreement by the Agency, the Lessee (Lot 23), at or prior to the Commencement Date, shall deliver or cause to be delivered to the Agency duplicate originals of insurance policies and/or binders evidencing compliance with the insurance requirements of this Section 4.5. At least ten (10) Business Days prior to the expiration of any such policy, the Lessee (Lot 23) shall furnish the Agency with evidence that such policy has been renewed or replaced or is no longer required by this Agreement.

(f) The Lessee (Lot 23), at its own cost and expense, shall make all proofs of loss and take all other steps necessary or reasonably requested by the Agency to collect from insurers for any loss covered by any insurance required to be obtained by this Section 4.5, and shall use commercially reasonable efforts to cause any contractor or other insuring party under this Section 4.5 to take similar action with respect to such party's insurance required hereunder. The Lessee (Lot 23) shall not do any act, or suffer or permit any act to be done, whereby any insurance required by this Section 4.5 would or might be suspended or impaired.

(g) THE AGENCY DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OR COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE OPERATION OF THE FACILITY (Lot 23) OR THE BUSINESS, OPERATIONS OR FINANCIAL CONDITION OF THE LESSEE (Lot 23).

Section 4.6 Advances by Agency. In the event the Lessee (Lot 23) fails to make any payment or perform or observe any obligation required of it under this Agreement, the Agency, after first notifying the Lessee (Lot 23) in writing of any such failure on its part (except that no prior notification of the Lessee (Lot 23) shall be required in the event of an emergency condition that, in the reasonable judgment of the Agency, necessitates immediate action), may (but shall not be obligated to), and without waiver of any of the rights of the Agency under this Agreement or any other Project Document to which the Agency is a party, make such payment or otherwise cure any failure by the Lessee (Lot 23) to perform and observe its other obligations hereunder or under any other Project Document. All amounts so advanced therefor by the Agency shall become an additional obligation of the Lessee (Lot 23) to the Agency, which amounts, together with interest thereon at the rate of eighteen percent (18%) per annum, from the date advanced, the Lessee (Lot 23) will pay upon demand therefor by the Agency. Any remedy herein vested in the Agency for the collection of Rental Payments or other amounts due hereunder shall also be available to the Agency for the collection of all such amounts so advanced.

Section 4.7 Compliance with Law. The Lessee (Lot 23) agrees that it will, throughout the term of this Agreement and at its sole cost and expense, promptly observe and comply, and require pursuant to the terms of their respective Facility Leases (Lot 23) (which the Lessee (Lot 23) agrees to use all "commercially reasonable efforts" to enforce) that all Facility Tenants (Lot 23) promptly observe and comply, with all Federal, State and local statutes, codes, laws, acts, ordinances, orders, judgments, decrees, rules, regulations and authorizations, whether foreseen or unforeseen, ordinary or extraordinary, which shall now or at any time hereafter be binding upon or applicable to the Lessee (Lot 23), the Facility (Lot 23), any occupant, user or operator (including any Facility Tenant (Lot 23)) of the Facility (Lot 23) or any portion thereof (including, without limitation, those relating to zoning, land use, building codes, environmental protection, air, water and land pollution, toxic wastes, hazardous wastes, solid wastes, wetlands, health, safety, equal opportunity, minimum wages, and employment practices) (the "Legal Requirements"), and will observe and comply, and cause all Facility Tenants (Lot 23) to promptly observe and comply, with all conditions, requirements, and schedules necessary to preserve and extend all rights, licenses, permits (including, without limitation, zoning variances, special exception and non-conforming uses), privileges, franchises and concessions. The Lessee (Lot 23) shall cause each Facility Lease (Lot 23) to include provisions sufficient to enable the Lessee (Lot 23) to enforce compliance by the Facility Tenant (Lot 23) with Legal Requirements. Further, "commercially reasonable efforts" shall mean, in the case of any violation of Legal Requirements which would cause a threat to health, life or safety, immediate and diligent enforcement efforts. The Lessee (Lot 23) will not, without the prior written consent of the Agency (which consent shall not be unreasonably withheld or delayed), initiate, join in or consent to any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses that may be made of the Facility (Lot 23) or any part thereof,

except that the Lessee (Lot 23) shall comply with the City Deed. The Lessee (Lot 23) shall indemnify and hold harmless the Indemnified Parties (as defined in Section 6.2 hereof) from and against all loss, cost, liability and expense (a) in any manner arising out of or related to any violation of or failure by the Lessee (Lot 23) (or any other Person (including any Facility Tenant (Lot 23)) occupying, operating or using the Facility (Lot 23) or any part thereof) to comply with any Legal Requirement, or (b) imposed upon the Lessee (Lot 23) or any of the Indemnified Parties by any Legal Requirement; in case any action or proceeding is brought against any of the Indemnified Parties in respect of any Legal Requirement, the Lessee (Lot 23) shall upon notice from any of the Indemnified Parties defend such action or proceeding by counsel satisfactory to the Indemnified Party.

The Lessee (Lot 23) may contest in good faith the validity, existence or applicability of any of the foregoing if (i) such contest shall not result in the Facility (Lot 23) or any part thereof or interest therein being in any danger of being sold, forfeited or lost, (ii) such contest shall not result in the Agency being in any danger of any civil or any criminal liability, or the Lessee (Lot 23) being in any danger of any criminal liability, for failure to comply therewith, and (iii) the Lessee (Lot 23) shall have furnished such security, if any, as may be reasonably requested by the Agency for failure to comply therewith.

ARTICLE V**DAMAGE, DESTRUCTION AND CONDEMNATION**

Section 5.1 Damage, Destruction and Condemnation. (a) In the event that at any time during the term of this Agreement the whole or part of the Facility (Lot 23) shall be damaged or destroyed, or taken or condemned by a competent authority for any public use or purpose, or by agreement among the Agency, the Lessee (Lot 23) and those authorized to exercise such right, or if the temporary use of the Facility (Lot 23) shall be so taken by condemnation or agreement (a "Loss Event")

(i) the Agency shall have no obligation to rebuild, replace, repair or restore the Facility (Lot 23),

(ii) there shall be no abatement, postponement or reduction in the Rental Payments payable by the Lessee (Lot 23) under this Agreement or any other Project Document to which it is a party, and

(iii) the Lessee (Lot 23) will promptly give written notice of such Loss Event to the Agency, generally describing the nature and extent thereof.

(b) In the event a Loss Event shall occur, the Lessee (Lot 23) shall

(i) at its own cost and expense (except to the extent paid from the Net Proceeds as provided below), promptly and diligently rebuild, replace, repair or restore the Facility (Lot 23) to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, regardless of whether or not the Net Proceeds derived from the Loss Event shall be sufficient to pay the cost thereof, and the Lessee (Lot 23) shall not by reason of payment of any such excess costs be entitled to any reimbursement from the Agency, nor shall the Rental Payments payable by the Lessee (Lot 23) under this Agreement or any other Project Document to which it is a party be abated, postponed or reduced, or

(ii) exercise its option to purchase the Agency's interest in the Facility (Lot 23) and to terminate this Agreement as provided in Section 8.1 hereof.

As soon as practicable but no later than ninety (90) days after the occurrence of the Loss Event, the Lessee (Lot 23) shall advise the Agency in writing of the action to be taken by the Lessee (Lot 23) under this Section 5.1(b).

(c) All rebuilding, replacements, repairs or restorations of the Facility (Lot 23) in respect of or occasioned by a Loss Event shall

(i) automatically be deemed a part of the Facility (Lot 23) and shall be subject to this Agreement,

(ii) be effected only if such rebuilding, replacement, repair or restoration shall not change the nature of the Facility (Lot 23) as an Approved Facility (Lot 23) and a qualified "project" as defined in the Act, and

(iii) be effected with due diligence in a good and workerlike manner, in compliance with all applicable Legal Requirements, subject to the right of the Lessee (Lot 23) to contest same as provided in the second paragraph of Section 4.7 hereof, and be promptly and fully paid for by the Lessee (Lot 23) in accordance with the terms of the applicable contract(s) therefor.

(d) The date of completion of the rebuilding, replacement, repair or restoration of the Facility (Lot 23) shall be evidenced to the Agency by a certificate of an Authorized Representative of the Lessee (Lot 23) stating (i) the date of such completion, (ii) that all labor, services, machinery, equipment, materials and supplies used therefor and all costs and expenses in connection therewith have been paid for or arrangement for payment, reasonably satisfactory to the Agency, has been made, (iii) that the Facility (Lot 23) has been rebuilt, replaced, repaired or restored to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, (iv) that the Agency has good and valid title to all property constituting part of the Facility (Lot 23) and all property of the Facility (Lot 23) is subject to this Agreement, subject to Permitted Encumbrances, and (v) that the restored Facility (Lot 23) is ready for occupancy, use and operation for its intended purposes. Notwithstanding the foregoing, such certificate shall state (x) that it is given without prejudice to any rights of the Lessee (Lot 23) against third parties which exist at the date of such certificate or which may subsequently come into being, (y) that it is given only for the purposes of this Section and (z) that no Person other than the Agency may benefit therefrom. Such certificate shall be accompanied by (i) a certificate of occupancy (either temporary or permanent, provided that if it is a temporary certificate of occupancy, the Lessee (Lot 23) will proceed with due diligence to obtain a permanent certificate of occupancy), if required, and any and all permissions, licenses or consents required of governmental authorities for the occupancy, operation and use of the Facility (Lot 23) for the purposes contemplated by this Agreement; and (ii) a search prepared by a title company, or other evidence satisfactory to the Agency, indicating that there has not been filed with respect to the Facility (Lot 23) any mechanic's, materialmen's or any other lien in connection with the rebuilding, replacement, repair and restoration of the Facility (Lot 23) and that there exist no encumbrances on or affecting the Facility (Lot 23) or any part thereof other than Permitted Encumbrances or those encumbrances consented to by the Agency.

(e) The Agency and the Lessee (Lot 23) shall cooperate and consult with each other in all matters pertaining to the settlement, compromise, arbitration or adjustment of any claim

or demand on account of any Loss Event, and the settlement, compromise, arbitration or adjustment of any such claim or demand shall, as between the Agency and the Lessee (Lot 23), be subject to the written approval of the Lessee (Lot 23).

(f) Notwithstanding anything contained herein to the contrary, if all or substantially all of the Facility (Lot 23) shall be taken or condemned, or if the taking or condemnation renders the Facility (Lot 23) unsuitable for use by the Lessee (Lot 23) as contemplated hereby, the Lessee (Lot 23) shall exercise its option to terminate this Agreement as provided in Section 8.1 hereof.

(g) The Lessee (Lot 23) shall be entitled to any insurance proceeds or condemnation award, compensation or damages attributable to the Lessee Property (Lot 23), subject to the provisions of the Mortgage.

(h) The Lessee (Lot 23) hereby waives the provisions of Section 227 of the New York Real Property Law or any law of like import now or hereafter in effect.

ARTICLE VI

PARTICULAR COVENANTS

Section 6.1 Dissolution of Lessee (Lot 23); Restrictions on Lessee (Lot 23).

The Lessee (Lot 23) covenants and agrees that at all times during the term of this Agreement, it will (i) maintain its existence as a limited liability company, (ii) continue to be subject to service of process in the State and qualified to do business in the State, (iii) not liquidate, wind-up or dissolve or otherwise dispose of all or substantially all of its property, business or assets remaining after the Commencement Date, and (iv) not consolidate with or merge into another entity or permit one or more entities to consolidate with or merge into it; provided, however, the Lessee (Lot 23), without violating the foregoing but with the prior written consent of the Agency, may consolidate with or merge into another entity, or permit one or more entities to consolidate with or merge into it, or sell or otherwise transfer all or substantially all of its property, business or assets to another such entity (and thereafter liquidate, wind-up or dissolve or not, as the Lessee (Lot 23) may elect) if, (i) the Lessee (Lot 23) is the surviving, resulting or transferee entity, and has a positive net worth (as determined in accordance with generally accepted accounting principles), or (ii) in the event that the Lessee (Lot 23) is not the surviving, resulting or transferee entity (1) the surviving, resulting or transferee entity (A) is solvent and subject to service of process in the State and organized under the laws of any state of the United States, and duly qualified to do business in the State, (B) is not, nor is it an Affiliate of, a Prohibited Person, and (C) assumes in writing all of the obligations of the Lessee (Lot 23) contained in this Agreement and all other Project Documents to which the Lessee (Lot 23) shall be a party, (2) the Lessee (Lot 23) delivers to the Agency an Opinion of Counsel to the effect that this Agreement and all other Project Documents to which the Lessee (Lot 23) shall be a party constitute the legal, valid and binding obligations of such successor Lessee (Lot 23) and are enforceable in accordance with their respective terms to the same extent as they were enforceable against the predecessor Lessee (Lot 23), and (3) such successor Lessee (Lot 23) has a positive net worth (as determined in accordance with generally accepted accounting principles) after the merger, consolidation, sale or transfer. The Lessee (Lot 23) further represents, covenants and agrees that it is and throughout the term of this Agreement will (y) continue to be duly qualified to do business in the State and that any company succeeding to its rights under this Agreement shall be and continue to be duly qualified to do business in the State, and (z) not constitute a Prohibited Person.

The Lessee (Lot 23) further represents, covenants and agrees that it is and throughout the term of this Agreement will (x) continue to be an Affiliate of IAC, (y) continue to be duly qualified to do business in the State and that any company succeeding to its rights under this Agreement shall be and continue to be duly qualified to do business in the State, and (z) not constitute a Prohibited Person.

Section 6.2 Indemnity. (a) The Lessee (Lot 23) shall at all times protect and hold the Agency, and any director, member, officer, employee, servant or agent thereof and persons under the Agency's control or supervision, and the PILOT Depository (collectively, the "Indemnified Parties" and each an "Indemnified Party") harmless of, from and against any and all claims (whether in tort, contract or otherwise), demands, expenses (including, without limitation, attorney's fees and

court costs) and liabilities for losses, damage, injury and liability of every kind and nature and however caused, and taxes (of any kind and by whomsoever imposed), other than, with respect to each Indemnified Party, losses arising from the gross negligence or willful misconduct of such Indemnified Party, arising upon or about the Facility (Lot 23) or resulting from, arising out of, or in any way connected with (i) the financing of the costs of the Facility (Lot 23) and the participation of the Agency and the PILOT Depository in the transactions contemplated by this Agreement and the other Project Documents to which the Lessee (Lot 23) shall be a party, (ii) the planning, design, acquisition, site preparation, construction, renovation, equipping, installation or completion of the Project (Lot 23) or any part thereof or the effecting of any work done in or about the Facility (Lot 23), (iii) any defects (whether latent or patent) in the Facility (Lot 23), (iv) the maintenance, repair, replacement, restoration, rebuilding, upkeep, use, occupancy, ownership, leasing, subletting or operation of the Facility (Lot 23) or any portion thereof, or (v) the execution and delivery by the Agency or the Lessee (Lot 23) of, or performance by the Indemnified Parties or the Lessee (Lot 23), as the case may be, of, any of their respective obligations under, this Agreement or any other Project Document to which the Lessee (Lot 23) is a party or any other document or instrument delivered by the Lessee (Lot 23) in connection herewith or therewith or the enforcement of any of their terms hereof or thereof or the transactions contemplated hereby or thereby. No Indemnified Party shall be liable for any damage or injury to the person or property of the Lessee (Lot 23), any Facility Tenant (Lot 23) or the Master Guarantor or their respective directors, officers, managers, partners, members, employees, agents or servants or persons under the control or supervision of the Lessee (Lot 23), any Facility Tenant (Lot 23), the Master Guarantor or any other Person who may be involved with the Facility (Lot 23) due to any act or negligence of any Person other than for the gross negligence or willful misconduct of such Indemnified Party. \

(b) The Lessee (Lot 23) releases each Indemnified Party from, and agrees that no Indemnified Party shall be liable for and agrees to indemnify and hold each Indemnified Party harmless against any expense, loss, damage, injury or liability incurred because of any lawsuit commenced as a result of action taken by such Indemnified Party with respect to any of the matters set forth in subdivision (i) through (v) of Section 6.2(a) hereof or at the direction of a Lessee or the Master Guarantor with respect to any of such matters above referred to, except those arising out of the gross negligence or willful misconduct of such Indemnified Party. An Indemnified Party, shall promptly notify the Lessee (Lot 23) in writing of any claim or action brought against such Indemnified Party in which indemnity may be sought against the Lessee (Lot 23) pursuant to this Section 6.2; such notice shall be given in sufficient time to allow the Lessee (Lot 23) to defend or participate in such claim or action, but the failure to give such notice in sufficient time shall not constitute a defense hereunder nor in any way impair the obligations of the Lessee (Lot 23) under this Section 6.2.

(c) In addition to and without limitation of all other representations, warranties and covenants made by the Lessee (Lot 23) under this Agreement, the Lessee (Lot 23) further represents, warrants and covenants that the Lessee (Lot 23) has not used Hazardous Materials (as defined hereinafter) on, from, or affecting the Facility (Lot 23) in any manner which violates Legal Requirements governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, and that, to the best knowledge of the Lessee (Lot 23) and based on information included in the Environmental Assessment Statement

prepared by AKRF, Inc. dated December, 1998, which included a review of a Phase II prepared by H2M Group in 1992, a true and complete copy of which the Lessee (Lot 23) has delivered to the Agency (the "Audit"), the Project Land was listed on the State List of Inactive Hazardous Waste Sites (the "State List") by the New York State Department of Environmental Conservation ("DEC") due to the use of the Project Land for the dumping of Hazardous Materials from 1970-1972; and the DEC de-listed the Project Land from the State List in 1992. The Lessee (Lot 23) shall, to the extent required by applicable law, keep or cause the Facility (Lot 23) to be kept free of Hazardous Materials. Without limiting the foregoing, the Lessee (Lot 23) shall not cause or permit the Facility (Lot 23) or any part thereof to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all applicable Legal Requirements, nor shall the Lessee (Lot 23) cause or permit, as a result of any intentional or unintentional act or omission on the part of the Lessee (Lot 23) or any tenant or subtenant, a release of Hazardous Materials onto the Facility (Lot 23) or onto any other property. The Lessee (Lot 23) shall comply with and ensure compliance by all tenants and subtenants (including all Facility Tenants (Lot 23)) with all applicable Legal Requirements whenever and by whomever triggered, and shall obtain and comply with, and ensure that all tenants and subtenants (including all Facility Tenants (Lot 23)) obtain and comply with, any and all approvals, registrations or permits required thereunder. The Lessee (Lot 23) shall (i) conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions required by applicable law to clean up and remove all Hazardous Materials, on, from, or affecting the Facility (Lot 23) (x) in accordance with all applicable Legal Requirements, (y) to the reasonable satisfaction of the Agency, and (z) in accordance with the orders and directives of all Federal, state and local governmental authorities, and (ii) defend, indemnify, and hold harmless each Indemnified Party from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (w) the presence, disposal, release, or threatened release of any Hazardous Materials which are on, from, or affecting the Facility (Lot 23); (x) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; (y) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials; and/or (z) any violation of any Legal Requirements, or any policies or requirements of the Agency, which are based upon or in any way related to such Hazardous Materials including, without limitation, reasonable attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses. For purposes of this paragraph, "Hazardous Materials" includes, without limit, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. §§ 5101 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other Federal, state or local environmental law, ordinance, rule, or regulation. The provisions of this paragraph shall be in addition to any and all other obligations and liabilities the Lessee (Lot 23) may have to any Indemnified Party at common law, and shall survive the termination of this Agreement.

The parties hereto agree that the reference in this Section 6.2(c) to the Audit is not intended, and should not be deemed to intend, to modify, qualify, reduce or diminish the obligations of the Lessee (Lot 23) to carry out and perform all of the covenants stated in Section 4.6 hereof and throughout this Section 6.2, including but not limited to, those covenants wherein the Lessee (Lot 23) is obligated to indemnify each Indemnified Party and comply with all Legal Requirements pertaining to Hazardous Materials.

(d) The indemnifications and protections set forth in this Section 6.2 shall be extended to the members, directors, officers, employees, agents and servants and persons under the control or supervision of each Indemnified Party.

(e) To effectuate the purposes of this Section 6.2, the Lessee (Lot 23) will provide for and insure, in the public liability policies required in Section 4.5 hereof, not only its own liability in respect of the matters therein mentioned, but also (y) the liability of the Master Guarantor pursuant to Section 3.1 of the Master Guaranty Agreement (other than the liability pursuant to Section 3.1(a)(i) and (v) hereof, and with respect to Section 3.1(c) hereof, only to the extent such insurance is reasonably available), and (z) the liability pursuant to this Section 6.2 (other than the liability pursuant to Section 6.2(a)(i) and (v) hereof, and with respect to Section 6.2(c) hereof, only to the extent such insurance is reasonably available). Anything to the contrary in this Agreement notwithstanding, the covenants of the Lessee (Lot 23) contained in this Section 6.2 shall remain in full force and effect after the termination of this Agreement until the later of (i) the expiration of the period stated in the applicable statute of limitations during which a claim or cause of action may be brought and (ii) payment in full or the satisfaction of such claim or cause of action and of all expenses and charges incurred by the Agency relating to the enforcement of the provisions herein specified.

(f) For the purposes of this Section 6.2, the Lessee (Lot 23) shall not be deemed an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

Section 6.3 Compensation and Expenses of the Agency. The Lessee (Lot 23) shall pay the fees, costs and expenses of the Agency together with any fees and disbursements incurred by the Agency's Project Counsel and the Agency's general counsel in performing services for the Agency in connection with this Agreement or any other Project Document.

On the Commencement Date, the Lessee (Lot 23) together with the Other Lessee, shall pay to the Agency its fee of \$467,500 (said amount representing a \$514,700 financing fee less the Agency's General Counsel fee of \$44,700 and less an application fee of \$2,500, plus the initial annual administrative servicing fee of \$500), payment of which has been received on the Commencement Date. The Lessee (Lot 23) further agrees to pay, as an annual administrative servicing fee to the Agency, the amount of \$500 payable upon each anniversary of the Commencement Date until the termination of this Agreement.

Section 6.4 Retention of Title to Facility (Lot 23); Grant of Easements; Release of Facility (Lot 23). (a) The Agency shall not sell, assign, encumber (other than for Permitted Encumbrances), convey or otherwise dispose of the Facility (Lot 23) or any part thereof

or interest therein during the term of this Agreement, except as set forth in Sections 4.2, 5.1 and 7.2 hereof, without the prior written consent of the Lessee (Lot 23) and any purported disposition without such consent shall be void.

Notwithstanding the foregoing paragraph, the Agency will, at the written request of an Authorized Representative of the Lessee (Lot 23), so long as there exists no Event of Default hereunder, grant such rights of way or easements over, across, or under, the Facility (Lot 23), or grant such permits or licenses in respect to the use thereof, free from the leasehold estate of this Agreement as shall be necessary or convenient for the operation or use of the Facility (Lot 23), provided that such leases, rights of way, easements, permits or licenses shall not adversely affect the use or operation of the Facility (Lot 23). The Agency agrees, at the sole cost and expense of the Lessee (Lot 23), to execute and deliver any and all instruments necessary or appropriate to confirm and grant any such right of way or easement or any such permit or license and to release the same from the leasehold estate of this Agreement.

Notwithstanding any other provision of this Agreement, so long as there exists no Event of Default hereunder, the Lessee (Lot 23) may from time to time request in writing to the Agency the release of and removal from this Agreement and the leasehold estate created hereby of any unimproved part of the Land (Lot 23) (on which none of the Improvements (Lot 23) is situated) provided that such release and removal will not adversely affect the use or operation of the Facility (Lot 23). Upon any such request by the Lessee (Lot 23), the Agency shall, at the sole cost and expense of the Lessee (Lot 23), execute and deliver any and all instruments necessary or appropriate to so release and remove such portion of the Facility (Lot 23) and convey title thereto to the Lessee (Lot 23), subject to the following: (i) any liens, easements, encumbrances and reservations to which title to said property was subject at the time of recording of this Agreement; (ii) any liens, easements and encumbrances created at the request of the Lessee (Lot 23) or to the creation or suffering of which the Lessee (Lot 23) consented; (iii) any liens and encumbrances or reservations resulting from the failure of the Lessee (Lot 23) to perform or observe any of the agreements on its part contained in this Agreement; (iv) Permitted Encumbrances (other than the lien of this Agreement); and (v) any liens for taxes or assessments not then delinquent; **provided, however**, no such release shall be effected unless there shall be delivered to the Agency a certificate of an Authorized Representative of the Lessee (Lot 23), dated not more than sixty (60) days prior to the date of the release, stating that, in the opinion of the Person signing such certificate, the portion of the Facility (Lot 23) so proposed to be released and the release of such portion of the Facility (Lot 23) is not needed for the operation of the Facility (Lot 23), will not adversely affect the use or operation of the Facility (Lot 23) and will not destroy the means of ingress thereto and egress therefrom.

(b) No conveyance or release effected under the provisions of this Section 6.4 shall entitle the Lessee (Lot 23) to any abatement or diminution of the Rental Payments payable under Section 3.3 hereof required to be made by the Lessee (Lot 23) under this Agreement or any other Project Document to which it shall be a party.

Section 6.5 Discharge of Liens. (a) If any lien, encumbrance or charge is filed or asserted (including, without limitation, any lien for the performance of any labor or services or the

furnishing of materials), or any judgment, decree, order, levy or process of any court or governmental body is entered, made or issued or any claim (such liens, encumbrances, charges, judgments, decrees, orders, levies, processes and claims being herein collectively called "Liens"), whether or not valid, is made against the Facility (Lot 23) or any part thereof or the interest therein of the Agency or the Lessee (Lot 23) or against any of the Rental Payments payable under this Agreement or the interest of the Agency or the Lessee (Lot 23) under this Agreement, other than Liens for Impositions (as defined in Section 4.4 hereof) not yet payable, Permitted Encumbrances, or Liens being contested as permitted by Section 6.5(b) hereof, the Lessee (Lot 23) forthwith upon receipt of notice of the filing, assertion, entry or issuance of such Lien (regardless of the source of such notice) shall give written notice thereof to the Agency and take all action (including the payment of money and/or the securing of a bond) at its own cost and expense as may be necessary or appropriate to obtain the discharge in full thereof and to remove or nullify the basis therefor. Nothing contained in this Agreement shall be construed as constituting the express or implied consent to or permission of the Agency for the performance of any labor or services or the furnishing of any materials that would give rise to any Lien against the Agency's interest in the Facility (Lot 23).

(b) The Lessee (Lot 23) may at its sole expense contest (after prior written notice to the Agency), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Lien, if (1) such proceeding shall suspend the execution or enforcement of such Lien against the Facility (Lot 23) or any part thereof or interest therein, or in this Agreement, of the Agency or the Lessee (Lot 23) or against any of the Rental Payments payable under this Agreement, (2) neither the Facility (Lot 23) nor any part thereof or interest therein would be in any danger of being sold, forfeited or lost, (3) the Agency would not be in any danger of any criminal or any civil liability, other than normal accrual of interest, and the Lessee (Lot 23) would not be in any danger of any criminal liability for failure to comply therewith, and (4) the Lessee (Lot 23) shall have furnished such security, if any, as may be required in such proceedings or as may be reasonably requested by the Agency.

Section 6.6 Agency's Authority; Covenant of Quiet Enjoyment. (a) The Agency covenants and agrees that it has full right and lawful authority to enter into this Agreement for the full term hereof, and that, subject to the terms and provisions of the Permitted Encumbrances (and any other impairments of title whether or not appearing on the title insurance policy referred to in Section 2.3 hereof), so long as the Lessee (Lot 23) shall pay the Rental Payments payable by it under this Agreement and shall duly observe all the covenants, stipulations and agreements herein contained obligatory upon it and an Event of Default shall not exist hereunder, the Agency shall take no action to disturb the peaceful, quiet and undisputed possession of the Facility (Lot 23) by the Lessee (Lot 23), and the Agency (at the sole cost and expense of the Lessee (Lot 23)) shall from time to time take all necessary action to that end, subject to Permitted Encumbrances.

(b) Upon the reasonable request of the Lessee (Lot 23) or any Mortgagee, but no more often than once in any three-month period, the Agency shall deliver a certificate of an Authorized Representative of the Agency as to whether the Agency has sent any written notice of default to the Lessee (Lot 23) under this Agreement which has not yet been cured or withdrawn.

Section 6.7 No Warranty of Condition or Suitability. THE AGENCY HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, FITNESS, DESIGN, OPERATION OR WORKMANSHIP OF ANY PART OF THE FACILITY (Lot 23), ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE FACILITY (Lot 23), OR THE SUITABILITY OF THE FACILITY (Lot 23) FOR THE PURPOSES OR NEEDS OF THE LESSEE (Lot 23) OR THE FACILITY TENANTS (Lot 23) OR THE EXTENT TO WHICH FUNDS AVAILABLE TO THE LESSEE (Lot 23) WILL BE SUFFICIENT TO PAY THE COST OF COMPLETION OF THE PROJECT (Lot 23). THE LESSEE (Lot 23) IS SATISFIED THAT THE FACILITY (Lot 23) IS SUITABLE AND FIT FOR PURPOSES OF THE LESSEE (Lot 23) AND THE FACILITY TENANTS (Lot 23). THE AGENCY SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE LESSEE (Lot 23) OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE PROPERTY OF THE FACILITY (Lot 23) OR THE USE OR MAINTENANCE THEREOF OR THE FAILURE OF OPERATION THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED.

Section 6.8 Financial Statements; No-Default Certificates. (a) Upon request of the Agency, the Lessee (Lot 23) shall deliver or cause to be delivered to the Agency, a copy of the most recent annual audited financial statements of IAC (including balance sheets as of the end of such fiscal year and the related statement of revenues, expenses and changes in fund balances and, if applicable, income, earnings, and changes in financial position) for such fiscal year, prepared in accordance with sound accounting principles consistently applied, certified by an Independent Accountant. The Agency agrees to treat any financial statements of IAC as confidential information to the extent permitted by law, and not to divulge such information except (y) to a City official or City agency upon request for same, provided that any such financial statements of IAC so delivered shall be accompanied by a statement by the Agency that the Agency received and holds such financial statements as confidential information, or (z) as required by law.

(b) Upon the written request of the Agency, the Lessee (Lot 23) shall deliver to the Agency a certificate of an Authorized Representative of the Lessee (Lot 23) (i) as to whether or not, as of the close of the immediately preceding calendar year, and at all times during such year, to the best knowledge of the person so certifying, the Lessee (Lot 23) was in compliance with all the provisions which relate to the Lessee (Lot 23) in this Agreement and in any other Project Document to which it shall be a party, and if such Authorized Representative shall have obtained knowledge of any default in such compliance or notice of such default, he shall disclose in such certificate such default or defaults or notice thereof and the nature thereof, whether or not the same shall constitute an Event of Default hereunder, and any action proposed to be taken by the Lessee (Lot 23) with respect thereto; and (ii) that the insurance the Lessee (Lot 23) maintained complies with the provisions of Section 4.5 of this Agreement, that such insurance has been in full force and effect at all times during the preceding calendar year, and that duplicate copies of all policies or certificates

thereof have been filed with the Agency and are in full force and effect. In addition, upon twenty (20) days prior request by the Agency, the Lessee (Lot 23) will execute, acknowledge and deliver to the Agency a certificate of an Authorized Representative of the Lessee (Lot 23) either stating that to the knowledge of such Authorized Representative after due inquiry, no default under or breach of any of the terms hereof which, with the passage of time or the giving of notice or both would constitute an Event of Default hereunder, exists or specifying each such default or breach of which such Authorized Representative has knowledge.

(c) The Lessee (Lot 23) shall immediately notify the Agency of the occurrence of any Event of Default or any event which with notice and/or lapse of time would constitute an Event of Default under any Project Document of which it has knowledge. Any notice required to be given pursuant to this subsection shall be signed by an Authorized Representative of the Lessee (Lot 23) and set forth a description of the default and the steps, if any, being taken to cure said default. If no steps have been taken, the Lessee (Lot 23) shall state this fact on the notice.

Section 6.9 Employment Information, Opportunities and Guidelines.

(a) Annually, by August 1 of each year, commencing August 1, 2001, until the termination of this Agreement, the Lessee (Lot 23) shall submit to the Agency an employment report (with respect to the employees of the Lessee (Lot 23) and of each of the Facility Tenants (Lot 23)) relating to the period commencing July 1 of the previous year and ending June 30 of the year of the obligation of the filing of such report, substantially in the form of Schedule C attached hereto, certified as to accuracy by the chief financial or accounting officer of the Lessee (Lot 23). Upon termination of this Agreement, the Lessee (Lot 23) shall submit to the Agency an employment report (with respect to the employees of the Lessee (Lot 23) and of each of the Facility Tenants (Lot 23)) relating to the period commencing the date of the last report submitted to the Agency and ending on the last payroll date of the preceding month in substantially the form of Schedule C attached hereto, certified as to accuracy by the Lessee (Lot 23).

(b) The Lessee (Lot 23) shall ensure that all employees and applicants for employment by the Lessee (Lot 23) or its Affiliates with regard to the Facility (Lot 23) are afforded equal employment opportunities without discrimination. Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of the Project (Lot 23) shall be listed with the New York State Department of Labor Community Services Division, and with the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Facility (Lot 23) is located. Except as is otherwise provided by collective bargaining contracts or agreements, the Lessee (Lot 23) agrees, where practicable, to first consider, and cause each of its Affiliates at the Facility (Lot 23) to first consider, persons eligible to participate in the Federal Job Training Partnership (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the Community Services Division of the New York State Department of Labor for such new employment opportunities.

(c) The Lessee (Lot 23) hereby authorizes any private or governmental entity, including but not limited to The New York State Department of Labor ("DOL"), to release to the

Agency and/or the New York City Economic Development Corporation ("**EDC**"), and/or to the successors and assigns of either (collectively, the "**Information Recipients**"), any and all employment information under its control and pertinent to the Lessee (Lot 23), the employees of the Lessee (Lot 23) to enable the Agency and/or EDC to comply with its reporting requirements required by New York City Local Law 69 of 1993 and any other applicable laws, rules or regulations. In addition, upon the Agency's written request, the Lessee (Lot 23) shall provide to the Agency any employment information in the possession of the Lessee (Lot 23) which is pertinent to the Lessee (Lot 23), the employees of the Lessee (Lot 23) and the employees of Facility Tenants (Lot 23) to enable the Agency and/or EDC to comply with its reporting requirements required by New York City Local Law 69 of 1993 and any other applicable laws, rules or regulations. Information released or provided to Information Recipients by DOL, or by any other governmental entity, or by any private entity, or by the Lessee (Lot 23), or any information previously released as provided by all or any of the foregoing parties (collectively, "**Employment Information**") may be disclosed by the Information Recipients in connection with the administration of the programs of the Agency, and/or EDC, and/or the successors and assigns of either, and/or The City of New York, and/or as may be necessary to comply with law; and, without limiting the foregoing, the Employment Information may be included in (x) reports prepared by the Information Recipients pursuant to New York City Local Law 69 of 1993, (y) other reports required of the Agency, and (z) any other reports required by law. This authorization shall remain in effect throughout the term of this Agreement.

(d) Nothing in this Section shall be construed to require the Lessee (Lot 23) to violate any existing collective bargaining agreement with respect to hiring new employees.

Section 6.10 Further Assurances. The Lessee (Lot 23) will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such further acts, instruments, conveyances, transfers and assurances, including Uniform Commercial Code financing statements, at the sole cost and expense of the Lessee (Lot 23), as the Agency deems reasonably necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of this Agreement and any rights of the Agency hereunder.

Section 6.11 Recording and Filing. This Agreement shall be recorded by the Lessee (Lot 23) in the appropriate office of the Register of The City of New York, or in such other office as may at the time be provided by law as the proper place for the recordation thereof.

Section 6.12 Further Encumbrances; Permitted Mortgages. The Lessee (Lot 23) shall not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against the Facility (Lot 23) or any part thereof, or the interest of the Lessee (Lot 23) in the Facility (Lot 23) or this Agreement, except for Permitted Encumbrances. Upon the written request of the Lessee (Lot 23), and at the sole cost and expense of the Lessee (Lot 23), the Agency shall reasonably consider the execution of a Permitted Mortgage.

Section 6.13 Subtenant Survey. The Lessee (Lot 23) shall file with the Agency by January 1 of each year, commencing January 1, 2002, a certificate of an Authorized Representative of the Lessee (Lot 23) with respect to all subtenancies in effect at the Facility (Lot 23), including all

Facility Tenants (Lot 23), in the form attached hereto as Schedule D (the "Tenant Survey"). The Agency agrees to treat any Tenant Survey as confidential information to the extent permitted by law, and not to divulge such Tenant Survey except (y) to a City official or City agency upon request for same, provided that any such Tenant Survey so delivered shall be accompanied by a statement by the Agency that the Agency received and holds such Tenant Survey as confidential information, or (z) as required by law.

ARTICLE VII

EVENTS OF DEFAULT; REMEDIES

Section 7.1 Events of Default. Any one or more of the following events shall constitute an "Event of Default" hereunder:

(a) Failure of the Lessee (Lot 23) to pay when due any Rental Payment, and continuance of such failure for a period of fifteen (15) days after receipt by the Lessee (Lot 23) of written notice specifying the nature of such default from the Agency;

(b)(i) Failure of the Lessee (Lot 23) to observe and perform any covenant, condition or agreement on its part to be performed under Sections 4.3, 4.4, 4.6, 4.7, 5.1, 6.1, 6.2, 6.3, 6.12, 7.6, 8.5, 9.3 or 9.14 hereof and continuance of such failure for a period of thirty (30) days after receipt by the Lessee (Lot 23) of written notice specifying the nature of such default from the Agency;

(ii) Failure of the Lessee (Lot 23) to observe and perform any covenant or agreement on its part to be performed under Section 4.5 hereof and continuance of such failure for a period of fifteen (15) days after receipt by the Lessee (Lot 23) of written notice specifying the nature of such default from the Agency;

(c) Failure of the Lessee (Lot 23) to observe and perform any covenant, condition or agreement hereunder on its part to be performed (except as set forth in Section 7.1(a) or (b) above) and (i) continuance of such failure for a period of thirty (30) days after receipt by the Lessee (Lot 23) of written notice specifying the nature of such default from the Agency, or (ii) if by reason of the nature of such default the same can be remedied, but not within the said thirty (30) days, the Lessee (Lot 23) fails to proceed with reasonable diligence after receipt of said notice to cure the same or fails to continue with reasonable diligence its efforts to cure the same; or fails to cure the same within one hundred and eighty (180) days of receipt of said notice;

(d) The Lessee (Lot 23), any Other Lessee or IAC (for so long as IAC shall be obligated under the Master Guaranty Agreement) shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts generally become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under the Federal Bankruptcy Code, (vii) take any action for the purpose of effecting any of the foregoing, or (viii) be adjudicated a bankrupt or insolvent by any court;

(e) A proceeding or case shall be commenced, without the application or consent of the Lessee (Lot 23), any Other Lessee or IAC (for so long as IAC shall be obligated under the Master Guaranty Agreement), in any court of competent jurisdiction, seeking, (i) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of the Lessee (Lot 23), any Other Lessee or IAC (for so long as IAC shall be obligated under the Master Guaranty Agreement), or of all or any substantial part of their respective assets, or (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of ninety (90) days; or any order for relief against the Lessee (Lot 23), any Other Lessee or IAC (for so long as IAC shall be obligated under the Master Guaranty Agreement) shall be entered in an involuntary case under the Federal Bankruptcy Code; the terms "dissolution" or "liquidation" of the Lessee (Lot 23) as used above shall not be construed to prohibit any action otherwise permitted by Section 6.1 hereof, Section 2.6 of the Guaranty Agreement (Lot 23) or Section 2.6 of the Master Guaranty Agreement;

(f) Any representation or warranty made by the Lessee (Lot 23) (i) in the application and related materials submitted to the Agency for approval of the Project (Lot 23) or the transactions contemplated by this Agreement, or (ii) herein or in any other Project Document, or (iii) in any report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing, shall in any case prove to be false, misleading or incorrect in any material respect as of the date made, and the passage of ten (10) days after receipt by the Lessee (Lot 23) of written notice thereof from the Agency;

(g) The commencement of proceedings to foreclose any mortgage lien on or security interest in the Facility (Lot 23), which proceedings shall not have been discontinued or discharged within sixty (60) days after the commencement thereof;

(h) Any loss of title by the Agency to all or any material part of the Facility (Lot 23);

(i) An "Event of Default" under any Project Document shall occur and be continuing;

(j) The Lessee (Lot 23) or IAC (for so long as IAC shall be obligated under the Master Guaranty Agreement) or any Affiliate of either shall become a Prohibited Person.

Section 7.2 Remedies on Default. Whenever any Event of Default referred to in Section 7.1 hereof shall have occurred and be continuing, the Agency may take any one or more of the following remedial steps:

(a) The Agency may terminate this Agreement (with the effect that the term of this Agreement shall be deemed to have expired on such date of termination as if such date were the original expiration date of this Agreement) in which case this Agreement and all of the estate, right,

title and interest herein granted or vested in the Lessee (Lot 23) shall cease and terminate, and convey all of the Agency's right, title and interest in the Facility (Lot 23) to the Lessee (Lot 23), which the Agency may accomplish by executing and recording, at the sole cost and expense of the Lessee (Lot 23), a deed therefor as required by law, and a bill of sale, and the Lessee (Lot 23) hereby waives delivery and acceptance of such deed and bill of sale as a condition to its validity, and appoints the Agency its true and lawful agent and attorney-in-fact (which appointment shall be deemed to be an agency coupled with an interest) with full power of substitution to file on its behalf all affidavits, questionnaires and other documentation necessary to accomplish the recording of such deed; or

(b) The Agency may bring an action for damages, injunction or specific performance;

(c) The Agency may suspend or terminate the Sales Tax Letter (Lot 23) or require the Lessee (Lot 23) to surrender the Sales Tax Letter (Lot 23) to the Agency for cancellation;

(d) The Agency may require the Lessee (Lot 23) to make payments in lieu of real estate taxes under Section 4.3 hereof with respect to the Project Land and the Improvements (Lot 23) in an amount equal to that amount which the Lessee (Lot 23) would otherwise be required to pay if it were the owner of the Project Land and the Improvements (Lot 23); or

(e) The Agency may take whatever action at law or in equity as may appear necessary or desirable to collect the Rental Payments then due, or to enforce performance or observance of any obligations, agreements or covenants of the Lessee (Lot 23) under this Agreement.

No action taken pursuant to this Section 7.2 (including termination of this Agreement pursuant to this Section 7.2 or by operation of law or otherwise) shall, except as expressly provided herein, relieve the Lessee (Lot 23) from the Lessee (Lot 23)'s obligations hereunder, including without limitation, the obligations of the Lessee (Lot 23) under Sections 4.3 (until such time as the Lessee (Lot 23) shall again pay taxes as the record owner of the Facility (Lot 23)), 9.13 and 9.15 hereof, all of which shall survive any such action.

Notwithstanding the foregoing, the Agency shall not take any of the actions referred to in paragraphs (a), (b), (c), (d) or (e) above until after the Agency shall have delivered notice of its intent to take such action to the Mortgagee (if the Mortgagee shall have, prior to such date, given a notice address to the Agency for such purpose), and the Mortgagee shall not have cured the default set forth in such notice within ten (10) days after the receipt thereof by the Mortgagee. To such end, the Lessee (Lot 23) hereby grants to the Mortgagee full authority for the account of the Lessee (Lot 23) to make any Rental Payment or perform any covenant or obligation of the Lessee (Lot 23) under this Agreement, and the Agency agrees to accept such Rental Payment and performance by the Mortgagee as performance by the Lessee (Lot 23).

Section 7.3 Remedies Cumulative. The rights and remedies of the Agency under this Agreement shall be cumulative and shall not exclude any other rights and remedies of the Agency allowed by law with respect to any default under this Agreement. Failure by the Agency to insist

upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon default by the Lessee (Lot 23) hereunder shall not be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce by mandatory injunction, specific performance or other appropriate legal remedy a strict compliance by the Lessee (Lot 23) with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such default by the Lessee (Lot 23) be continued or repeated.

Section 7.4 No Additional Waiver Implied by One Waiver. In the event any covenant or agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be binding unless it is in writing and signed by the party making such waiver. No course of dealing between the Agency and the Lessee (Lot 23) or any delay or omission on the part of the Agency in exercising any rights hereunder or under any other Project Document shall operate as a waiver.

Section 7.5 Effect on Discontinuance of Proceedings. In case any proceeding taken by the Agency under this Agreement or under any other Project Document on account of any Event of Default hereunder or thereunder shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Agency, then, and in every such case, the Agency shall be restored to its former position and rights hereunder and thereunder, and all rights, remedies, powers and duties of the Agency shall continue as in effect prior to the commencement of such proceedings.

Section 7.6 Agreement to Pay Attorneys' Fees and Expenses. In the event the Lessee (Lot 23) should default under any of the provisions of this Agreement and the Agency should employ outside attorneys or incur other out-of-pocket expenses for the collection of the Rental Payments payable hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Lessee (Lot 23) herein contained, the Lessee (Lot 23) agrees that it will on demand therefor pay to the Agency the reasonable fees and disbursements of such attorneys and such other expenses so incurred.

ARTICLE VIII**OPTIONS TO PURCHASE THE FACILITY (Lot 23); RECAPTURE OF BENEFITS****Section 8.1 Option to Purchase Facility (Lot 23) and to Terminate Agreement.**

(a) The Lessee (Lot 23) shall have the option to purchase the Agency's interest in the Facility (Lot 23) and to terminate this Agreement on any date during the term hereof by paying all Rental Payments due hereunder. The Lessee (Lot 23) shall exercise such option by delivering to the Agency a written notice of an Authorized Representative of the Lessee (Lot 23) to an Authorized Representative of the Agency stating that the Lessee (Lot 23) has elected to exercise its option under this Section 8.1(a) and the date on which such purchase and termination is to be made. In addition, the Lessee (Lot 23) shall purchase the Agency's interest in the Facility (Lot 23) on the scheduled expiration date of this Agreement by paying on such date any and all Rental Payments then due hereunder.

(b) The Lessee (Lot 23), in purchasing the Agency's interest in the Facility (Lot 23) and terminating this Agreement pursuant to Section 8.1(a) hereof, shall pay to the Agency, as the purchase price, in legal tender, an amount equal to all Rental Payments due hereunder (excluding therefrom any payments due under Section 4.3 hereof which would accrue subsequent to the date of conveyance by the Agency to the Lessee (Lot 23) of the Facility (Lot 23)), plus one dollar (\$1.00).

(c) The Lessee (Lot 23) shall not, at any time, assign or transfer its option to purchase the Agency's interest in the Facility (Lot 23) as contained in this Section 8.1 separate and apart from a permitted assignment of this Agreement pursuant to the terms of Section 9.3 hereof without the prior written consent of the Agency.

Section 8.2 Conveyance on Exercise of Option to Purchase. At the closing of any purchase of the Agency's interest in the Facility (Lot 23) pursuant to Section 8.1 hereof, the Agency will, upon payment of the purchase price, deliver or cause to be delivered to the Lessee (Lot 23) (i) a bargain and sale deed without covenants against grantor's acts and all other necessary documents conveying to the Lessee (Lot 23) all of the Agency's right, title and interest in and to the Facility (Lot 23) and terminating this Agreement; and (ii) all necessary documents releasing and conveying to the Lessee (Lot 23) all of the Agency's rights and interests in and to any rights of action (other than as against the Lessee (Lot 23) or any insurer of the insurance policies under Section 4.5(a)(iii) hereof), or any insurance proceeds (other than liability insurance proceeds for the benefit of the Agency) or condemnation awards, with respect to the Facility (Lot 23) or any portion thereof.

Upon conveyance of the Agency's interest in the Facility (Lot 23) pursuant to this Section 8.2, this Agreement and all obligations of the Lessee (Lot 23) hereunder shall be terminated except the obligations of the Lessee (Lot 23) under Sections 4.3 (until such time as the Lessee (Lot 23) shall again pay taxes as the record owner of the Facility (Lot 23)), 9.13 and 9.15 hereof shall survive such termination.

Section 8.3 [Reserved].

Section 8.4 Termination of Agreement. Notwithstanding any other provision of this Agreement to the contrary, on or after the PILOT Expiration Date, and upon receipt of forty-five (45) days prior written notice of the Agency requesting termination, the Lessee (Lot 23) shall terminate this Agreement by paying the fees and expenses of the Agency and all other amounts due and payable under this Agreement and any other Project Documents, and thereupon the Lessee (Lot 23) shall accept pursuant to deed from the Agency title to the Facility (Lot 23) and such termination shall forthwith become effective, subject, however, to the survival of the obligations of the Lessee (Lot 23) under Sections 4.3 (until such time as the Lessee (Lot 23) shall again pay taxes as the record owner of the Facility (Lot 23)), 9.13 and 9.15 hereof. In the event the Lessee (Lot 23) does not accept title to the Facility (Lot 23) and terminate this Agreement within such 45 day period, then, commencing on the 46th day after transmittal of the notice requesting termination as above provided, the Lessee (Lot 23) shall, in addition to all other payment obligations due to the Agency hereunder, make rental payments to the Agency in the amount of \$500.00 per day until the Lessee (Lot 23) shall have accepted title to the Facility (Lot 23) and terminated this Agreement in accordance with the provisions hereof.

ARTICLE IX

MISCELLANEOUS

Section 9.1 Force Majeure. In case by reason of *force majeure* either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then except as otherwise expressly provided in this Agreement, if such party shall give notice and full particulars of such *force majeure* in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligations of the party giving such notice (other than the obligations of the Lessee (Lot 23) to make the Rental Payments required under the terms hereof, or to comply with Sections 4.5, 6.2 or 8.5 hereof), so far as they are affected by such *force majeure*, shall be suspended during the continuance of the inability then claimed, which shall include a reasonable time for the removal of the effect thereof, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "*force majeure*", as employed herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States or of the State or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrest, restraining of government and people, civil disturbances, explosions, partial or entire failure of utilities, shortages of labor, material, supplies or transportation, or any other similar or different cause not reasonably within the control of the party claiming such inability. It is understood and agreed that the requirements that any *force majeure* shall be reasonably beyond the control of the party and shall be remedied with all reasonable dispatch shall be deemed to be satisfied in the event of a strike or other industrial disturbance even though existing or impending strikes or other industrial disturbances could have been settled by the party claiming a *force majeure* hereunder by acceding to the demands of the opposing person or persons.

The Lessee (Lot 23) shall promptly notify the Agency upon the occurrence of each *force majeure*, describing such *force majeure* and its effects in reasonable detail. The Lessee (Lot 23) shall also promptly notify the Agency upon the termination of each such *force majeure*. The information set forth in any such notice shall not be binding upon the Agency, and the Agency shall be entitled to dispute the existence of any *force majeure* and any of the contentions contained in any such notice received from the Lessee (Lot 23).

Section 9.2 Priority. Pursuant to the Mortgage, the Agency and the Lessee (Lot 23) will grant to the First Mortgagee a first mortgage lien on and a security interest in the Facility (Lot 23) as security for the payment of amounts due under the Mortgage Note. This Agreement shall be subject and subordinate to the Mortgage and to such mortgage liens and security interests so created thereby; provided, however, that nothing in the Mortgage shall impair the Agency's ability to enforce its rights hereunder against the Lessee (Lot 23).

Section 9.3 Assignment or Sublease. (a) The Lessee (Lot 23) shall not at any time (y) except as permitted by Section 6.1 hereof, assign or transfer this Agreement, or (z) sublet the whole or any part of the Facility (Lot 23) (other than to a Facility Tenant (Lot 23) in accordance

with Section 9.3(c) hereof) without the prior written consent of the Agency (such consent to take into consideration the Agency's policies as in effect from time to time), and provided that, if the Agency shall deliver such consent:

(i) the sublease, assignment or transfer shall not cause the Facility (Lot 23) to cease being an Approved Facility (Lot 23) and a "project" under the Act;

(ii) except if the Agency shall execute a written release of the Lessee (Lot 23), the Lessee (Lot 23) shall remain primarily liable to the Agency for the payment of all Rental Payments hereunder and for the full performance of all of the terms, covenants and conditions of this Agreement and of any other Project Document to which it shall be a party;

(iii) any assignee or transferee of the Lessee (Lot 23) or any sublessee in whole of the Facility (Lot 23) shall have assumed in writing (and shall have executed and delivered to the Agency an instrument in form for recording) and have agreed to keep and perform all of the terms of this Agreement and the Guaranty Agreement (Lot 23) on the part of the Lessee (Lot 23) to be kept and performed, shall, except if the Agency shall release the Lessee (Lot 23) in writing from this Agreement and the Guaranty Agreement (Lot 23), be jointly and severally liable with the Lessee (Lot 23) for the performance thereof, shall be subject to service of process in the State, and, if a corporation, shall be qualified to do business in the State;

(iv) any assignee, transferee or sublessee shall utilize the Facility (Lot 23) as an Approved Facility (Lot 23) and a qualified "project" within the meaning of the Act;

(v) such assignment, transfer or sublease shall not violate any provision of this Agreement or any other Project Document;

(vi) except if the Agency shall release the Lessee (Lot 23) in writing from this Agreement and the Guaranty Agreement (Lot 23), in the Opinion of Counsel, such assignment, transfer or sublease shall not legally impair in any respect the obligations of the Lessee (Lot 23) for the payment of all Rental Payments nor for the full performance of all of the terms, covenants and conditions of this Agreement or of any other Project Document to which the Lessee (Lot 23) shall be a party, nor impair or limit in any respect the obligations of the Lessee (Lot 23) under the Guaranty Agreement (Lot 23) or of the Master Guarantor under the Master Guaranty Agreement;

(vii) such assignment, transfer or sublease shall in no way diminish or impair the obligation of the Lessee (Lot 23) to carry the insurance required under Section 4.5 of this Agreement and the Lessee (Lot 23) shall furnish written evidence satisfactory to the Agency that such insurance coverage shall in no manner be limited by reason of such assignment, transfer or sublease; and

(viii) each such assignment, transfer or sublease shall contain such other provisions as the Agency may reasonably require.

The Lessee (Lot 23) shall furnish or cause to be furnished to the Agency a copy of any such assignment, transfer or sublease in substantially final form at least thirty (30) days prior to the date of execution thereof.

(b) Any consent by the Agency to any act of assignment, transfer or sublease shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of the Lessee (Lot 23), or the successors or assigns of the Lessee (Lot 23), to obtain from the Agency consent to any other or subsequent assignment, transfer or sublease, or as modifying or limiting the rights of the Agency under the foregoing covenant by the Lessee (Lot 23).

(c) Notwithstanding the foregoing provisions of Section 9.3(a) hereof, no consent of the Agency shall be required for the execution of a Facility Lease (Lot 23) entered into in compliance with the provisions of this Section 9.3(c). The Lessee (Lot 23) shall not execute, nor suffer to be executed, a new Facility Lease (Lot 23) with, or an assignment of a Facility Lease (Lot 23) to, a proposed new Facility Tenant (Lot 23) (the "Proposed Facility Tenant (Lot 23)"), unless the Lessee (Lot 23) shall deliver to the Agency prior to such execution, the following :

(i) a notice with the name, address, and, if closely held, the names and home addresses, and other information required by the Agency to undertake its VENDEX search (or such successor search as may then be utilized by the Agency), the proposed new Facility Lease (Lot 23) which must include (and the Lessee (Lot 23) shall so certify) provisions for reporting of Facility Tenant Employees and use of the Facility (Lot 23) sufficient to enable the Lessee (Lot 23) to comply with its obligations under this Agreement;

(ii) a consent to VENDEX search (or such successor search as may then be utilized by the Agency) evidencing the fact that neither the Proposed Facility Tenant (Lot 23) nor any Affiliate thereof is a Prohibited Person; and

(iii) a certificate of an Authorized Representative of the Lessee (Lot 23) to the effect that the intended use of the portion of the Facility (Lot 23) by the Proposed Facility Tenant (Lot 23) would constitute a qualified "project" under the Act, and be for an Approved Facility (Lot 23).

The Agency shall endeavor to use its best efforts to advise the Lessee (Lot 23) of any objection the Agency may have to the Proposed Facility Tenant (Lot 23) within thirty (30) days of the receipt by the Agency of the materials in paragraphs (i) through (iii) above.

(d) The Lessee (Lot 23) covenants and agrees that it shall not, without the prior written consent of the Agency (which consent shall not be unreasonably withheld), amend, modify, terminate or assign, or to suffer any amendment, modification, termination or assignment of any Facility Lease (Lot 23) entered into in accordance with this Section in a manner which would be inconsistent with this Section or other provisions of this Agreement.

(e) The limitations in this Section 9.3 on assignment or transfer of this Agreement and subletting in whole or in part of the Facility (Lot 23) shall have equal application to any assignment and sub-subletting in whole or in part of the Facility (Lot 23).

(f) Promptly after receipt from the Agency of any subtenant survey and questionnaire pertaining to the Facility (Lot 23), the Lessee (Lot 23) shall complete and execute such survey and questionnaire and return the same to the Agency.

Section 9.4 Amendments. This Agreement may be amended by a written instrument executed and delivered by the parties hereto; provided, however, that no amendment pertaining directly or indirectly to the rights, powers or privileges of the Mortgagee shall be effective without the consent of the Mortgagee.

Section 9.5 Notices. All notices, certificates or other communications hereunder shall be sufficient if sent (i) by return receipt requested or registered or certified United States mail, postage prepaid, (ii) by a nationally recognized overnight delivery service, charges prepaid or (iii) by hand delivery, addressed, as follows:

(a) if to the Agency, to the Chairman, New York City Industrial Development Agency, 110 William Street, New York, New York 10038 with a copy to the Executive Director and the General Counsel of the Agency at the same address, and

(b) if to the Lessee (Lot 23), to IAC New York-IV L.L.C., 1849 Green Bay Road, Fourth Floor, Highland Park, Illinois, 60035, Attention: Director/Treasury/Accounting Operations, with a copy to Steven Polivy, Esq., Stadtmauer Bailkin, LLP, 850 Third Avenue, New York, New York 10022.

The Agency and the Lessee (Lot 23) may, by like notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice, certificate or other communication hereunder shall, except as may expressly be provided herein, be deemed to have been received two (2) Business Days after the mailing thereof if delivered or given by certified mail, return receipt requested. Notices may also be given in compliance with this Agreement by telecopy, provided that the recipient party consents to the use of telecopy transmissions for giving of notices hereunder and receipt of any such telecopy transmission is confirmed by the transmitting party.

Section 9.6 Prior Agreements Superseded. This Agreement shall completely and fully supersede all other prior understandings or agreements, both written and oral, between the Agency and the Lessee (Lot 23) relating to the Facility (Lot 23).

Section 9.7 Severability. If any clause, provision or section of this Agreement be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof.

Section 9.8 Inspection of Facility (Lot 23). The Lessee (Lot 23) will permit the Agency, or its duly authorized agent, upon 48 hours' notice, at all reasonable times, to enter the Facility (Lot 23), but solely for the purpose of (y) assuring that the Lessee (Lot 23) is operating the Facility (Lot 23), or is causing the Facility (Lot 23) to be operated, as an Approved Facility (Lot 23) and a qualified "project" within the meaning of the Act consistent with the purposes set forth in the recitals to this Agreement and with the public purposes of the Agency, and (z) determining whether the Facility (Lot 23) and/or the use thereof is in violation of any environmental law, and not for any purpose of assuring the proper maintenance or repair of the Facility (Lot 23) as such latter obligation is and shall remain solely the obligation of the Lessee (Lot 23).

Section 9.9 Effective Date; Counterparts. This Agreement shall become effective upon its delivery on the Commencement Date. It may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.10 Binding Effect. This Agreement shall inure to the benefit of, and shall be binding upon, the Agency and the Lessee (Lot 23) and their respective successors and assigns.

Section 9.11 Third Party Beneficiaries. It is the intention of the parties hereto that nothing contained herein is intended to be for, or to inure to, the benefit of any Person other than the parties hereto.

Section 9.12 Law Governing. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD OR GIVING EFFECT TO THE PRINCIPLES OF CONFLICTS OF LAWS THEREOF.

Section 9.13 Waiver of Trial by Jury. The parties do hereby expressly waive all rights to trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this Agreement or the Facility (Lot 23) or any matters whatsoever arising out of or in any way connected with this Agreement.

The provision of this Agreement relating to waiver of a jury trial and the right of re-entry or re-possession shall survive the termination or expiration of this Agreement.

Section 9.14 Non-Discrimination. (a) At all times during the maintenance and operation of the Facility (Lot 23), the Lessee (Lot 23) shall not discriminate nor permit any sublessee (including any Facility Tenant (Lot 23)) to discriminate against any employee or applicant for employment because of race, color, creed, age, sex or national origin. The Lessee (Lot 23) shall use its commercially reasonable efforts to ensure that employees and applicants for employment with the Lessee (Lot 23) or any subtenant of the Facility (Lot 23) (including any Facility Tenant (Lot 23)) are treated without regard to their race, color, creed, age, sex or national origin. As used herein, the term "treated" shall mean and include, without limitation, the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation;

selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off, and terminated.

(b) The Lessee (Lot 23) shall, in all solicitations or advertisements for employees placed by or on behalf of the Lessee (Lot 23) state that all qualified applicants will be considered for employment without regard to race, color, creed or national origin, age or sex.

(c) The Lessee (Lot 23) shall furnish to the Agency all information required by the Agency pursuant to this Section and will cooperate with the Agency for the purposes of investigation to ascertain compliance with this Section.

(d) The Agency and the Lessee (Lot 23) shall, from time to time, mutually agree upon goals for the employment, training, or employment and training of members of minority groups in connection with performing work with respect to the Facility (Lot 23).

Section 9.15 Recourse Under This Agreement. (a) All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency in such person's individual capacity, and no recourse shall be had for any reason whatsoever hereunder against any member, director, officer, employee or agent of the Agency or any natural person executing this Agreement on behalf of the Agency. In addition, in the performance of the agreements of the Agency herein contained, any obligation the Agency may incur for the payment of money shall not subject the Agency to any pecuniary or other liability or create a debt of the State or the City, and neither the State nor the City shall be liable on any obligation so incurred and any such obligation shall be payable solely out of amounts payable to the Agency by the Lessee (Lot 23) hereunder.

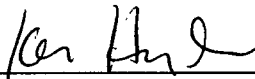
(b) Anything contained in this Agreement to the contrary notwithstanding, and except as specifically set forth in the Master Guaranty Agreement, recourse against the Lessee (Lot 23) for (1) the satisfaction of the obligations described in this Agreement, or (2) the performance of all of the other obligations of the Lessee (Lot 23) under this Agreement, or (3) any judgment rendered against the Lessee (Lot 23) by a court of equity which requires the payment of money, shall be limited solely to the Lessee (Lot 23) and none of (i) any member of the Lessee (Lot 23); (ii) any person owning, directly or indirectly, any legal or beneficial interest in any member of the Lessee (20); (iii) any partner (general or limited, or a subpartner at any level), manager, principal, officer, controlling person, beneficiary, trustee, real estate investment advisor or other similar fiduciary, shareholder, employee, agent, affiliate or director of any person described in clauses (i) or (ii) above; or (iv) any of their respective successors and assigns, shall in any case be personally liable for the payment of any indebtedness of the Lessee (Lot 23) or the performance of any other obligations of the Lessee (Lot 23) hereunder; provided, however, that the foregoing exculpation shall not impair or otherwise affect any of the Agency's rights or remedies against the Lessee (Lot 23) or any collateral now or hereafter pledged to the Agency as security for the obligations of the Lessee (Lot 23) or any of the Agency's rights and remedies against IAC under the Master Guaranty Agreement.

Section 9.16 Date of Agreement for Reference Purposes Only. The date of this Agreement shall be for reference purposes only and shall not be construed to imply that this Agreement was executed on the date first above written. This Agreement was delivered on May 30, 2001.

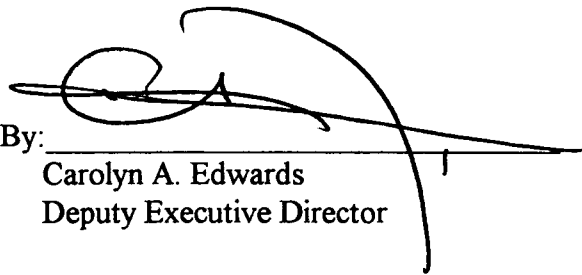
IN WITNESS WHEREOF, the Agency has caused its corporate name to be subscribed unto this Lease Agreement (Lot 23) by its duly authorized Chairman, Vice Chairman, Executive Director, Deputy Executive Director, General Counsel or Vice President for Legal Affairs and attested by its Secretary, an Assistant Secretary, Executive Director, Deputy Executive Director, General Counsel or Vice President for Legal Affairs and the Lessee (Lot 23) has caused its name to be hereunto subscribed by its duly Authorized Representative, all being done as of the year and day first above written.

**NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY**

ATTEST:



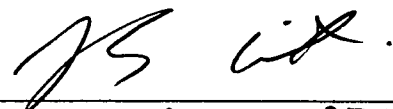
Assistant Secretary

By: 

Carolyn A. Edwards
Deputy Executive Director

IAC NEW YORK-IV L.L.C.

By: International Airport Centers, LLC,
its Manager

By: 

Name: JACOB CITREN
Title: MANAGING DIRECTOR

STATE OF NEW YORK)
 :SS.:
COUNTY OF NEW YORK)

On the 29th day of May, 2001, the undersigned, a Notary Public/Commissioner of Deeds in and for said State/The City of New York, personally appeared Carolyn A. Edwards, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual executed the instrument.

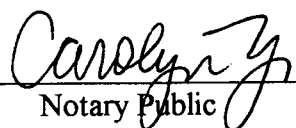


Notary Public/Commissioner of Deeds

MARTIN BREE
COMMISSIONER OF DEEDS
CITY OF NEW YORK NO. 4-5172
COMMISSION EXPIRES MAR. 01, 2003

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

On the 30th day of May, 2001, the undersigned, a Notary Public in and for said State, personally appeared Jacob Citrin, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ capacity, and that by his/~~her~~ signature on the instrument, the individual executed the instrument.



Notary Public
CAROLYN YI
Notary Public, State Of New York
No. 01YI6013752
Qualified In Queens County
Commission Expires Sept. 28, 2002

APPENDICES

Exhibit A

DESCRIPTION OF THE LAND (Lot 23)

EXHIBIT A

LEGAL DESCRIPTION

PARCEL D

ALL THAT CERTAIN PLOT, PIECE, OR PARCEL OF LAND, SITUATE, LYING, AND BEING IN THE BOROUGH AND COUNTY OF QUEENS, CITY AND STATE OF NEW YORK BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDELINE OF ROCKAWAY BOULEVARD (117 FOOT WIDE RIGHT OF WAY) DISTANT EASTERLY 2,575.265 FEET FROM THE INTERSECTION OF THE NORTHERLY SIDELINE OF ROCKAWAY BOULEVARD WITH THE EASTERLY SIDELINE OF SPRINGFIELD BOULEVARD (UNIMPROVED) AND FROM SAID POINT OF BEGINNING RUNNING, THENCE;

1. ALONG THE DIVIDING LINE BETWEEN TENTATIVE LOT 23, BLOCK 13791 AND TENTATIVE LOT 22, BLOCK 13791, NORTH 07 DEGREES - 35 MINUTES - 57 SECONDS EAST, A DISTANCE OF 771.001 FEET TO A POINT, THENCE;

2. ALONG THE DIVIDING LINE BETWEEN TENTATIVE LOT 23, BLOCK 13791 AND LOT 2, BLOCK 13791, ALONG A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 5,880.000 FEET, A CENTRAL ANGLE OF 03 DEGREES - 05 MINUTES - 33 SECONDS, AN ARC LENGTH OF 317.355 FEET, BEARING A CHORD OF SOUTH 82 DEGREES - 20 MINUTES - 56 SECONDS EAST, A CHORD DISTANCE OF 317.316 FEET TO A POINT, THENCE;

3. CONTINUING ALONG THE DIVIDING LINE BETWEEN TENTATIVE LOT 23, BLOCK 13791 AND LOT 2, BLOCK 13791, SOUTH 06 DEGREES - 52 MINUTES - 51 SECONDS EAST, A DISTANCE OF 795.999 FEET TO A POINT ON THE AFOREMENTIONED NORTHERLY SIDELINE OF ROCKAWAY BOULEVARD, THENCE;

4. ALONG SAID NORTHERLY SIDELINE OF ROCKAWAY BOULEVARD, NORTH 82 DEGREES - 24 MINUTES - 03 SECONDS WEST, A DISTANCE OF 516.350 FEET TO THE POINT AND PLACE OF BEGINNING.

FOR INFORMATION ONLY: BLOCK 13791, TENTATIVE LOT 23

BLANKET DESCRIPTION OF A, B, C, AND D

BEGINNING AT A POINT ON THE NORTHERLY SIDELINE OF ROCKAWAY BOULEVARD 117 FOOT WIDE RIGHT OF WAY) DISTANT EASTERLY 1,472.787 FEET FROM THE INTERSECTION OF THE NORTHERLY SIDELINE OF ROCKAWAY BOULEVARD WITH THE EASTERLY SIDELINE OF SRINGFIELD BOULEVARD (UNIMPROVED) AND FROM SAID POINT OF BEGINNING;

RUNNING THENCE THE FOLLOWING FOUR COURSES ALONG THE DIVIDING LINE BETWEEN TENTATIVE LOTS 20, 21, 22 AND 23, BLOCK 13791 AND LOT 2, BLOCK 13791;

1. NORTH 10 DEGREES 10 MINUTES 51 SECONDS EAST, A DISTANCE OF 635.239 FEET TO A POINT, THENCE;

2. ALONG A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 5934.000 FEET, A CENTRAL ANGLE OF 04 DEGREES 41 MINUTES 49 SECONDS, AN ARC LENGTH OF 486.327 FEET, BEARING A CHORD OF NORTH 86 DEGREES 52 MINUTES 46 SECONDS EAST, A CHORD

LEGAL DESCRIPTION

DISTANCE OF 486.327 FEET TO A POINT OF NON-TANGENCY, THENCE;

3. ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 5880.000 FEET, A CENTRAL ANGLE OF 08 DEGREES 55 MINUTES 12 SECONDS, AN ARC LENGTH OF 915.407 FEET, BEARING A CHORD OF SOUTH 85 DEGREES 15 MINUTES 46 SECONDS EAST, A CHORD DISTANCE OF 914.482 FEET TO A POINT OF NON-TANGENCY, THENCE;

4. SOUTH 06 DEGREES 52 MINUTES 51 SECONDS EAST, A DISTANCE OF 795.999 FEET TO A POINT ON THE AFOREMENTIONED NORTHERLY SIDELINE OF ROCKAWAY BOULEVARD, THENCE;

5. ALONG THE NORTHERLY SIDELINE OF ROCKAWAY BOULEVARD, NORTH 82 DEGREES 24 MINUTES 03 SECONDS WEST, A DISTANCE OF 1618.828 FEET TO THE POINT AND PLACE OF BEGINNING;

FOR INFORMATION ONLY BLOCK: 13791 LOT: PART OF 2

Exhibit B

[FORM OF SALES TAX LETTER]

LETTER OF AUTHORIZATION FOR SALES TAX EXEMPTION (Lot 23)

May 31, 2001

TO WHOM IT MAY CONCERN

Re: New York City Industrial Development Agency
(2001 International Airport Centers L.L.C. Project-Lot 23)

Ladies and Gentlemen:

The New York City Industrial Development Agency (the "Agency"), by this notice, hereby advises you as follows:

1. The Agency constitutes a corporate governmental agency and a public benefit corporation under the laws of the State of New York, and therefore, in the exercise of its governmental functions, is exempt from the imposition of any New York State or New York City sales and use tax. As an exempt governmental entity, no exempt organization identification number has been issued to the Agency nor is one required.

2. Pursuant to a resolution adopted by the Agency on December 9, 1999, as amended on December 12, 2000, and a certain Lease Agreement (Lot 23), dated as of May 1, 2001 (the "Lease Agreement"), between the Agency and IAC New York-IV L.L.C., a Delaware limited liability company (the "Company"), the Agency has authorized the Company to act as its agent for the acquisition of a certain parcel of land aggregating 7.386 acres and the construction of a building of approximately 141,782 square feet thereon, all for the leasing thereof to one or more tenants for use in the warehousing and distribution of air cargo and the intermodal transportation industry and for ancillary office uses and other ancillary commercial uses related thereto, to be located on 230-79 International Airport Center Boulevard, Jamaica, New York (the "Project (Lot 23)").

3. In connection with such resolutions, the Lease Agreement (Lot 23) and this Sales Tax Letter and pursuant to the authority therein granted, the Agency authorizes the Company to act as its agent in connection with the acquisition and construction of the Project (Lot 23) and authorizes the Company to use this Sales Tax Letter as its agent only for the payment of the costs of acquisition of building materials and building fixtures (excluding trade fixtures) for such acquisition and construction of the Project (Lot 23).

4. As agent for the Agency, the Company agrees that each contract, agreement, invoice, bill or purchase order entered into by the Company as agent for the Agency for the acquisition and construction of the Project (Lot 23) for which Sales Tax Savings (as defined in the Lease Agreement (Lot 23) are being sought) shall include language in substantially the following form:

"This [contract, invoice, bill or purchase order] is being entered into by IAC New York-IV L.L.C., a Delaware limited liability company (the "Agent"), as agent for and on behalf of the New York City Industrial Development Agency (the "Agency") in connection with a certain project of the Agency for the Agent consisting of the acquisition of a 7.386 acre parcel of land and the construction thereon of a building of approximately 141,782 square feet, all for the leasing thereof to one or more tenants for use in the warehousing and distribution of air cargo and the intermodal transportation industry and ancillary office uses and other ancillary commercial uses related thereto, to be located on 230-79 International Airport Center Boulevard, Jamaica, New York (the "Project (Lot 23)"). The building materials and fixtures (excluding trade fixtures) to be used for the Project (Lot 23) which is the subject of this [contract, agreement, invoice, bill or purchase order] shall be exempt from the sales and use tax levied by the State of New York and The City of New York if effected in accordance with the terms and conditions set forth in the attached Sales Tax Letter of the Agency, and the Agent hereby represents that this [contract, agreement, invoice, bill or purchase order] is in compliance with the terms of the Sales Tax Letter. This [contract, agreement, invoice, bill or purchase order] is nonrecourse to the Agency, and the Agency shall not be directly or indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever, and the Agent shall be the sole party liable hereunder. By execution or acceptance of this [contract, agreement, invoice, bill or purchase order], the [vendor or contractor] hereby acknowledges and agrees to the terms and conditions set forth in this paragraph."

5. The acquisition of building materials and building fixtures for use in construction of the Facility (Lot 23) constituting a part of the Project (Lot 23) shall be exempt from the sales and use tax levied by the State of New York and The City of New York on the condition that (i) such materials and capital improvements are separately identifiable property of the Agency, and (ii) any such property shall have a useful life of one year or more, shall be installed solely at the Facility (Lot 23) and at no other location, and be effected by and at the sole cost of the Company.

6. The Agency shall have no liability or performance obligations under any contract, agreement, invoice, bill or purchase order entered into by the Company as agent for the Agency hereunder. The Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever, and the Company shall be the sole party liable thereunder.

7. By execution by the Company of its acceptance of the terms of this Sales Tax Letter, the Company agrees to accept the terms hereof and represents and warrants to the Agency that the use of this Sales Tax Letter by the Company is strictly for the purposes above stated.

8. Accordingly, until the earlier of (i) December 31, 2004, (ii) the completion of the Project (Lot 23) as provided in Section 2.2 of the Lease Agreement, (iii) the termination of the Lease Agreement (Lot 23), (iv) the receipt by the Company of notice from the Agency of the termination of this Sales Tax Letter or (v) the receipt by the Company and the Other Lessees (as defined in the Lease Agreement (Lot 23)) of the Maximum Sales Tax Savings of \$1,850,000 (in each case as so terminated, the "Termination Date"), all vendors, contractors and subcontractors are hereby authorized to rely on this Sales Tax Letter (or on a photocopy or fax of this Sales Tax Letter) as evidence that purchases of the Project (Lot 23) property, to the extent effected by the Company (or by a contractor or subcontractor engaged by the Company) as agent for the Agency, are exempt from all New York State and New York City sales and use taxes.

9. The Company agrees and covenants that upon the occurrence of the Termination Date, it will immediately deliver this Sales Tax Letter back to the Agency for cancellation.

The signature of a representative of the Company where indicated below will indicate that the Company has accepted the terms hereof.

NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Carolyn A. Edwards
Deputy Executive Director

ACCEPTED AND AGREED TO BY:

IAC NEW YORK-IV L.L.C.

By: International Airport Centers, LLC,
its Manager

By: _____
Jacob Citrin,
Managing Director

Exhibit C

ST-340 Annual Report of Sales and Use Tax Exemptions



Annual Report of Sales and Use Tax Exemptions Claimed by Agent/Project Operator of Industrial Development Agency/Authority (IDA)

For Period Ending December 31, _____ (enter year)

Project information

Name of IDA agent/project operator		Federal employer identification number (EIN)
Street address		Telephone number
City	State	ZIP code

Name of IDA agent/project operator's authorized representative, if any		Title
Street address		Telephone number
City	State	ZIP code

Name of IDA		
Street address		
City	State	ZIP code

Name of project		
Street address of project site		
City	State	ZIP code

1 Project purpose:

Services Construction Agriculture, forestry, fishing

Wholesale trade Retail trade Finance, insurance or real estate

Transportation, communication, electric, gas, or sanitary services

Manufacturing Other (specify) _____

2 Date project began: _____ / _____ / _____
MM DD YY

3 Beginning date of construction or installation (actual or expected): _____ / _____ / _____
MM DD YY

4 Completion date of construction phase of project (actual or expected): _____ / _____ / _____
MM DD YY

5 Completion date of project (actual or expected): _____ / _____ / _____
MM DD YY

6 Duration of project (years/months; actual or expected): _____ / _____
Years Months

7 Total sales and use tax exemptions (actual tax savings; NOT total purchases)	7	\$
--	---	----

Print name of officer, employee, or authorized representative signing for the IDA agent/project operator	Title of person signing
Signature	Date

Failure to file a complete report annually may result in the removal of authority to act as an IDA agent/project operator.
Mail completed report to: NYS TAX DEPARTMENT, IDA UNIT, BLDG 8 RM 658, W A HARRIMAN CAMPUS, ALBANY NY 12227.

General information

Who must file?

The General Municipal Law (GML) and the Public Authorities Law require the agent/project operator (also known as *project occupant*) of an Industrial Development Agency or Authority (IDA) to file an annual report with the New York State Department of Taxation and Finance. The agent/project operator required to file this report is the person directly appointed by the IDA to act for and to represent the IDA for the project. The agent/project operator is ordinarily the one for whom the IDA project was created.

There is usually only one agent/project operator directly appointed by the IDA for an IDA project. However, if the IDA directly appoints multiple agents/project operators, each agent/project operator must file this form (unless they are related corporations).

Only the agent/project operator(s) directly appointed by the IDA must file Form ST-340. Contractors, subcontractors, consultants, or agents appointed by the agent/project operator(s) are not required to file Form ST-340.

What must be reported?

The report must show the total value of all state and local sales and use taxes exempted during the calendar year, as a result of the project's designation as an IDA project. This includes:

- the value of the exemptions obtained by the agent/project operator, and
- the value of the exemptions obtained by your contractors, subcontractors, consultants, and others, whether or not appointed as agents of the IDA.

The report requires only the total combined exemptions obtained by the above people. A break down of the total is not required. However, since the report must include the value of the exemptions they obtained, the agent/project operator must keep records of the amounts others report to the agent/project operator.

It is important that the agent/project operator make it clear to the contractors, subcontractors, consultants, and others that they must keep accurate tax information and have it available so that the agent/project operator can comply with the annual reporting requirements.

Do not include in this report the amount of any sales and use tax exemptions arising out of other provisions of the Tax Law (for example, manufacturer's production equipment exemption, research and development exemption, or contractor's exemption for tangible personal property incorporated into a project of an exempt organization).

See instructions below for additional information required.

When is the report due?

You must file Form ST-340 on a calendar-year basis. It is due by the last day of February of the following year. The reporting requirement applies to IDA projects started on or after July 21, 1993.



Need help?

Telephone assistance is available from 8:30 a.m. to 4:25 p.m. (eastern time), Monday through Friday.

Tax information: 1 800 972-1233

Forms and publications: 1 800 462-8100

From outside the U.S. and outside Canada: (518) 485-6800

Fax-on-demand forms: 1 800 748-3676

Internet access: <http://www.tax.state.ny.us>

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110 (8:30 a.m. to 4:25 p.m., eastern time)



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 225-5829.



If you need to write, address your letter to: NYS Tax Department, Taxpayer Assistance Bureau, Taxpayer Correspondence, W A Harriman Campus, Albany NY 12227.

Project information

At the top of the form, identify the reporting period by entering the year in the space provided. If an address is required, always include the ZIP code.

Name of IDA agent/project operator

Enter the name, address, federal employer identification number (EIN), and telephone number of the IDA agent/project operator.

Name of IDA agent/project operator's authorized representative

Enter the name, address, title, and telephone number of the individual (e.g. attorney or accountant) authorized by the IDA agent/project operator to submit this report.

Name of IDA

Enter the name and address of the IDA. If more than one IDA is involved in a particular project, the IDA agent/project operator must file a separate report for the tax exemptions attributable to each IDA.

Name of project

Enter the name of the project and the address of the project site. If the IDA agent is involved in more than one project, a separate report must be filed by the IDA agent/project operator for each project, even if authorized by the same IDA.

Line instructions

Line 1 — Project purpose — Check the box that identifies the purpose of the project. If you check *Other*, please be specific in identifying its purpose.

Line 2 — Enter the date the project started (this means the earliest of the date of any bond or inducement resolution, the execution of any lease, or any bond issuance). Include month, day, and year.

Line 3 — Enter the date on which you, or your general contractor or subcontractor, actually began or expect to begin construction or installation on the project. If the project does not involve any construction, enter *Does not apply*.

Line 4 — Enter the date the construction phase of the project was completed. If it has not been completed by the end of the reporting period, enter the date you expect to complete this phase of the project.

Line 5 — Enter the date on which installation, lease, or rental of property (for example, machinery or computers) on the project ended. If the project was not completed by the end of the reporting period, enter the date the project is expected to be completed.

Line 6 — Enter the total number of years and months from the project's inception to its completion or expected completion.

Line 7 — Enter the total amount of New York State and local sales and compensating use taxes exempted during the reporting period (if none, enter "0") as a result of the project's receipt of IDA financial assistance. This includes exemptions obtained at the time of purchase as well as through a refund or credit of tax paid. Include the sales and use taxes exempted on purchases of property or services incorporated into or used on the exempt project. This includes the taxes exempted on purchases made by or on behalf of the agent/project operator, the general contractor for the project, and any subcontractors, consultants, or others. Do not enter total purchases on line 7.

Signature area

Enter the name and title of the person signing on behalf of the IDA agent/project operator (for example, the IDA agent/project operator's officer, employee, or other authorized representative). The IDA agent/project operator's officer, employee, or authorized representative must sign the report. Enter the date signed.

Mail completed report to: NYS Tax Department, IDA Unit, Bldg. 8 Rm 658, W A Harriman Campus, Albany NY 12227.

Privacy notification

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions, and forms, is found in Articles 8, 28, and 28-A of the Tax Law; and 42 USC 405(c)(2)(C)(i).

The Tax Department uses this information primarily to determine and administer sales and use taxes or liabilities under the Tax Law, and for any other purpose authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of the Registration and Data Services Bureau, NYS Tax Department, Building 8 Room 924, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the U.S. and outside Canada, call (518) 485-6800.

Exhibit D
Copy of the City Deed

SCHEDULE A

**PROJECT COMPLETION CERTIFICATE OF LESSEE (Lot 23) AS
REQUIRED BY SECTION 2.2(d) OF THE LEASE AGREEMENT (Lot 23)**

The undersigned, an Authorized Representative (as defined in the Lease Agreement (Lot 23) referred to below) of IAC New York-IV L.L.C., a Delaware limited liability company (the "Lessee (Lot 23)"), HEREBY CERTIFIES that this Certificate is being delivered in accordance with the provisions of Section 2.2(d) of that certain Lease Agreement (Lot 23), dated as of May 1, 2001 (the "Lease Agreement (Lot 23)"), between the New York City Industrial Development Agency (the "Agency") and the Lessee (Lot 23), and FURTHER CERTIFIES THAT (capitalized terms used but not defined herein shall have the respective meanings assigned to such terms in the Lease Agreement (Lot 23)):

(i) the Project (Lot 23) has been completed substantially in accordance with the plans and specifications therefor and the date of completion of the Project (Lot 23) was _____;

(ii) except for any Project (Lot 23) costs not due and payable or the liability for payment of which is being contested or disputed by the Lessee (Lot 23) in good faith, all labor, services, machinery, equipment, materials and supplies used therefor have been paid for or arrangement for payment, as described below, has been made [insert details of payment arrangement, if applicable];

(iii) all other facilities necessary in connection with the Project (Lot 23) have been completed and all costs and expenses incurred in connection therewith have been paid;

(iv) the Agency has good and valid insurable fee simple title to the Facility (Lot 23), and all property constituting the Facility (Lot 23) is subject to the Lease Agreement (Lot 23), subject only to Permitted Encumbrances;

(v) to the best knowledge of the undersigned (and based in part upon the temporary or permanent certificate of occupancy), in accordance with all applicable laws, regulations, ordinances and guidelines, the Facility (Lot 23) is ready for occupancy, use and operation for its intended purposes;

(vi) \$ _____ represents the amount required for the payment of remaining costs of the Project (Lot 23);

(vii) this Certificate is given without prejudice to any rights of the Lessee (Lot 23) against third parties existing on the date hereof or which may subsequently come into being and no Person other than the Agency may benefit from this Certificate;

(viii) attached hereto are (a) releases of mechanics' liens by the general contractor and by all contractors and materialmen who supplied work, labor, services, machinery, equipment, materials or supplies in connection with the Project (Lot 23), (b) a temporary or permanent certificate of occupancy, (c) any and all permissions, approvals, licenses or consents required of governmental authorities for the occupancy, operation and use of the Facility (Lot 23) for the purposes

contemplated by the Lease Agreement, and (d) evidence that all real property taxes and assessments, and payments in lieu of taxes, if any, due and payable under Section 4.3 of the Lease Agreement (Lot 23) in respect of the Facility (Lot 23) have been paid in full;

(ix) the aggregate rentable square footage of the Facility (Lot 23) is _____ rentable square foot.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this ____ day of _____, ____.

IAC NEW YORK-IV L.L.C.,
as Lessee (Lot 23)

By: International Airport Centers, LLC,
its Manager

By: _____
Name:
Title:



New York City
Industrial Development Agency

IDA BENEFITS REPORT

For benefits utilized during the period of 7/1/___ - 6/30/___
DUE BY FACSIMILE _____

COMPANY NAME: _____

If your company is entitled to a benefit during the period of July 1, _____ - June 30, _____, but has not utilized the benefit during that period, please report \$0.00 where applicable.

If your company is not entitled to these benefits or if you have reached your maximum benefit prior to the period of July 1, _____ - June 30, _____, please check the not applicable portion of the form.

SALES TAX BENEFITS

not applicable, no benefit used this period not applicable, maximum benefit reached
not applicable, project not eligible for benefit

Total Purchase Costs: \$ _____

Total Sales Tax (purchase cost x 8.25%): \$ _____

BUSINESS INCENTIVE RATE - (BIR)

not applicable, no benefit used this period not applicable, maximum benefit reached
not applicable, project not eligible for benefit

Cost at Market Rate: \$ _____

Cost at BIR: \$ _____

Amount of Benefit: (market rate - BIR) \$ _____

Principal/Owner/Chief Financial Officer: _____ (Please Print)

Signature: _____ Date: _____

If you have any questions, please call the IDA Compliance Helpline at (212) 312-3963.

PLEASE FAX YOUR RESPONSE TO: (212)312-3918



New York City
Industrial Development Agency

Annual Employment Report

For the year ending June 30, ____

In order to comply with Local and State employment reporting requirements, the New York City Industrial Development Agency must require all of its project companies to complete and return the Report to the Agency no later than July 10, ____.

«COMPANY»
«ADDRESS»
«CITY »
«NAME»

Telephone # _____

Tax ID # _____

Please provide information as of June 30th of jobs of both the Lessee (Lot 23) and all Facility Tenants (Lot 23) at the Project Location(s). Do not include any subcontractors and consultants. Include only employees and owners/principals on your payroll or the payroll of the Facility Tenants (Lot 23) at the Project Location.

Number of existing FULL TIME JOBS _____

Number of existing PART TIME JOBS _____

Certification: I, the undersigned, hereby certify to the best of my knowledge and belief, that all information contained in this report is true and complete, and that I understand it is submitted pursuant to agreement. The Company hereby authorizes any private or governmental entity, including but not limited to The New York State Department of Labor ("DOL"), to release to the New York City Industrial Development Agency (the "Agency") and/or to the New York City Economic Development Corporation ("EDC"), and/or to the successors and assigns of either (collectively, the "Information Recipients"), any and all employment information under DOL's control which is pertinent to the Company and the Company's employees. In addition, upon the Agency's request, the Company shall provide to the Agency any employment information in the Company's possession which is pertinent to the Company and the Company's employees. Information released or provided to Information Recipients by DOL, or by any other governmental entity, or by any private entity, or by the Company itself, or any information previously released as provided by all or any of the foregoing parties (collectively, "Employment Information") may be disclosed by the Information Recipients in connection with the administration of the programs of the Agency, and/or EDC, and/or the successors and assigns of either, and/or The City of New York, and/or as may be necessary to comply with law; and, without limiting the foregoing, the Employment Information may be included in (x) reports prepared by the Information Recipients pursuant to New York City Local Law 69 of 1993, (y) other reports required of the Agency, and (z) any other reports required by law. This authorization shall remain in effect through the term of this transaction.

Principal/Owner/Chief Financial Officer _____ (please print)

Signature _____ Date _____

QUESTIONS: Please call the IDA Compliance Helpline at (212) 312-3963.

PLEASE FAX YOUR RESPONSE TO 212-312-3918



New York City
Industrial Development Agency

IDA SUBTENANT SURVEY

DUE DATE: December 30, ____

«COMPANY»
«ADDRESS»
«CITY »
«NAME»

In order to verify compliance with your IDA transaction documents, please complete the information requested below for each and every subtenant occupying space in you facility as of **JANUARY 1, ____**.

Total Square Footage of Building(s) _____ Sq. Ft.

Subtenant	Floor	Square Footage	Lease Begins	Lease Ends
-----------	-------	----------------	--------------	------------

I, the undersigned hereby certify to the best of my knowledge and belief, that the information reported above is true and complete. I understand that this information is submitted pursuant to the requirements of the IDA Transaction Documents.

PURSUANT TO THE IDA TRANSACTION DOCUMENTS, ALL INFORMATION CONTAINED HEREIN SHALL BE TREATED AS CONFIDENTIAL IN ACCORDANCE WITH THE IDA TRANSACTION DOCUMENTS.

Name: _____

Title: _____

Signature: _____

Date: _____

Phone Number: _____

Please fax the completed form to:
New York City Industrial Development Agency
Compliance Unit
212-312-3918

HelpLine: 212-312-3963

NEW YORK CITY ECONOMIC
DEVELOPMENT CORPORATION

to

IAC NEW YORK L.L.C.

DEED

The land affected by the
within instrument lies in

Block 13791; part of Lot 2 (tentative lots 20, 21, 22 & 23)

on the Tax Map for the
Borough of Queens

Record & Return:

Jesse Masyr, Esq.
Wachtel & Masyr
110 East 59th Street
New York, NY 10022

THIS INDENTURE, dated as of May 31, 2001, between NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION ("Grantor"), a local development corporation incorporated under Section 1411 of the New York State Not-for-Profit Corporation Law, having an office at 110 William Street, New York, New York 10038, and IAC NEW YORK L.L.C. ("Grantee"), a Delaware limited liability company, having an office at 1849 Green Bay Road, 4th Floor, Highland Park, IL 60035.

WITNESSETH

WHEREAS, the Mayor of The City of New York, on the 31st day of May, 2001, authorized the sale of the premises hereinafter described by The City of New York ("the City") to Grantor; and

WHEREAS, the Queens Borough Board by Resolution adopted on February 20, 2001, approved such transfer of title.

NOW, THEREFORE, Grantor, in consideration of the sum of FIVE MILLION FIVE HUNDRED TWO THOUSAND ONE HUNDRED TWENTY-EIGHT DOLLARS (\$5,502,128.00), paid by Grantee, and other valuable consideration, does hereby grant and release unto Grantee, its successors and assigns forever:

ALL that certain lot, piece or parcel of land situate, lying and being in the Borough of Queens, City and State of New York, being known and designated as Block 13791, part of Lot 2 on the Tax Map for said Borough, as such Tax Map existed on July 12, 1960 when the City acquired title to such parcel, bounded and described as follows:

BEGINNING at a point on the northerly sideline of International Airport Center Boulevard (F.K.A. Rockaway Boulevard, 117 foot wide right of way) distant easterly 1,472.787 feet from the intersection of the northerly sideline of International Airport Center Boulevard (F.K.A. Rockaway Boulevard, 117 foot wide right of way) with the easterly sideline of Springfield Boulevard (unimproved) and from said point of beginning;

Running thence the following four courses along the dividing line between tentative lots 20, 21, 22 and 23, Block 13791 and Lot 2, Block 13791;

1. North 10 degrees 10 minutes 51 seconds East, a distance of 635.239 feet to a point, thence;

2. Along a non-tangent curve to the right, having a radius of 5934.000 feet, a central angle of 04 degrees 41 minutes 49 seconds, an arc length of 486.464 feet, bearing a chord of North 86 degrees 52 minutes 46 seconds East, a chord distance of 486.327 feet to a point of non-tangency, thence;
3. Along a curve to the right, having a radius of 5880.000 feet, a central angle of 08 degrees 55 minutes 12 seconds, an arc length of 915.407 feet, bearing a chord of South 85 degrees 15 minutes 46 seconds East, a chord distance of 914.482 feet to a point of non-tangency, thence;
4. South 06 degrees 52 minutes 51 seconds East, a distance of 795.999 feet to a point on the aforementioned northerly sideline of International Airport Center Boulevard (F.K.A. Rockaway Boulevard, 117 foot wide right of way);
5. Thence along the northerly sideline of International Airport Center Boulevard (F.K.A. Rockaway Boulevard, 117 foot wide right of way) North 82 degrees 24 minutes 03 seconds West, a distance of 1618.828 feet to the point and place of BEGINNING.

TO HAVE AND TO HOLD said premises herein granted unto Grantee, the successors and assigns of Grantee forever.

(a) Grantor hereby agrees that notwithstanding any restrictions on the transfer of the premises contained in paragraph (d) hereof, Grantee shall be permitted to subdivide the premises into four (4) separate lots (the "Lots") and to sell or otherwise transfer three (3) of the Lots to the following entities, so that each entity shall become the owner of one of the Lots: (i) IAC NEW YORK - II L.L.C., (ii) IAC NEW YORK - III L.L.C., and (iii) IAC NEW YORK - IV L.L.C. Grantee represents that each such entity is an affiliate of Grantee in that each such entity and Grantee are wholly owned by the same entity. Each such entity shall hereafter be referred to as a "Purchasing Affiliate".

(b) Grantee and the Purchasing Affiliates, on behalf of themselves and their successors and assigns, covenant and agree (1) to substantially complete (as hereinafter defined), to the extent not previously completed, the Utility Work (as hereinafter defined) and the Cleanup Work (as hereinafter defined) within 18 months from the date hereof (subject to Unavoidable Delays (as hereinafter defined)); (2) to commence, within ten (10) months of the substantial

completion of the Utility Work and Cleanup Work, construction on the premises of one (1) or more buildings containing a minimum of 250,000 square feet of floor area ("floor area" as used herein shall be defined as such term is defined in Section 12-10 of the Zoning Resolution of the City of New York, but excluding from such term any area used for parking) (said ten (10) month period is intended to provide an ample time period to obtain the necessary building permit or permits and complete all other preparation work to enable construction to commence); (3) to commence, within ten (10) months of the substantial completion of the Utility Work and the Cleanup Work, the installation of a Vegetative Buffer along the northerly side of the premises (subject to Unavoidable Delays) ("Vegetative Buffer" shall mean a vegetative screen installed in accordance with the specifications previously delivered to Grantee by the Port Authority of New York and New Jersey (the "Port Authority") and in accordance with any additional specifications of the United States Department of Transportation Federal Aviation Administration (the FAA)); (4) to achieve substantial completion of the construction described in clauses (2) and (3) within 12 months of the commencement of such construction (subject to Unavoidable Delays); and (5) to comply with requirements set forth in the Uniform Land Use Review Procedure ("ULURP") and environmental review approvals of the Project (as hereinafter defined), including but not limited to any requirements related to the location of truck loading and unloading activities at the premises. At the request of Grantee and/or any of the Purchasing Affiliates, Grantor shall deliver a document, in recordable form, confirming whether Grantee and/or such Purchasing Affiliate or Purchasing Affiliates have complied with the foregoing provisions. The "Utility Work" shall mean the extension of storm sewer, sanitary sewer and water service facilities necessary for the Project to the property line of the premises in a manner that will allow such utility services to be provided to the premises. The "Cleanup Work" shall mean the adherence to and performance of the work contained in (i) a grading plan, previously submitted to and approved by The New York City Department of Environmental Protection (the "DEP"), that requires one foot of clean fill at all unpaved areas of the premises and (ii) the Construction, Safety and Health Plan, that also has been submitted to and approved by DEP. The "Project" is defined as the acquisition of the premises by Grantee, the subdivision of the premises into Lots, the transfer of certain of the Lots to the Purchasing Affiliates, and the lease of the Lots by Grantee and the Purchasing Affiliates to

tenants for use in connection with the business operations of an air cargo and intermodal transportation industry facility, including accessory office and other uses by companies that support the air cargo and intermodal freight industry, and the construction of such facility by Grantee and/or the Purchasing Affiliates. As used herein, "substantially complete" or "substantial completion" means (i) in the case of the Utility Work and the Cleanup Work, full completion of such work, except for minor or insubstantial finishing items that do not negatively impact the premises, any structures thereon or any permitted uses thereof, and (ii) in the case of the construction of any building or buildings upon the premises, each such building shall have received of a temporary certificate of occupancy for the uses permitted hereunder. As used herein, "Unavoidable Delays" means delays beyond the reasonable control of Grantee and/or the Purchasing Affiliates which have the effect of delaying Grantee's or the Purchasing Affiliates' performance hereunder and which are due to strikes, lockouts, acts of God, inability to obtain labor or materials (not reasonably foreseeable and not resulting from cost considerations), court orders enjoining Grantee's or Purchasing Affiliates' performance or court proceedings in which a governmental entity or agency is seeking to enjoin or prevent Grantee's or Purchasing Affiliates' performance (unless such court orders or court proceedings result from disputes among present or former members, shareholders, officers, directors, or affiliates of Grantee or Purchasing Affiliates or comparable internal matters), enemy action, civil commotion, inability to obtain (despite Grantee's or Purchasing Affiliates' best efforts in diligently pursuing) a governmental approval necessary to Grantee's or Purchasing Affiliates' performance beyond the period of time which is normally required to obtain such governmental approval with respect to projects comparable to the Project, fire, catastrophic weather conditions or other unavoidable casualty (but not including Grantee's or Purchasing Affiliates' insolvency or financial condition). If Grantee or any of the Purchasing Affiliates transfers title to the premises or any of the Lots to New York City Industrial Development Agency ("IDA") in connection with obtaining financial assistance related to the Project, Grantee, and any such Purchasing Affiliates, on behalf of themselves and their successors, covenant that, so long as they or their successors lease any portion of the premises or the Lots from IDA or a successor agency, Grantee and any of said Purchasing Affiliates and their successors will be bound by and will complete the work described in clauses (1) through (5) of this subsection (b) (the "Work") and comply with the requirements of

paragraphs (e) through (h) hereof, as if Grantee or said Purchasing Affiliates or their successors had retained title to the premises or any of the Lots, as the case may be. Grantor will not require that IDA or a successor agency do such Work or have recourse against IDA or a successor agency in connection therewith. IDA on behalf of itself and any successor agency will covenant that, until the Work required by this paragraph has been completed, any lease of the premises or any of the Lots from it or such successor agency shall require the lessee of the premises or any of the Lots to complete such Work as if it was the title holder of the premises or any of the Lots and to provide in leases of the premises or any of the Lots that Grantor and its successors and assigns and designees are a named third party beneficiary of such obligation. Such requirement on the part of IDA shall be IDA's sole obligation in connection with the obligations of Grantee and the Purchasing Affiliates to complete the Work as set forth herein.

(c) Grantee and the Purchasing Affiliates, on behalf of themselves and their successors and assigns, covenant and agree that, for a period of five (5) years from the date hereof, the premises, including the Lots and any improvements thereon, shall be used as an air cargo and intermodal transportation industry facility, including ancillary office uses and other ancillary uses, by companies that support the air cargo and intermodal freight industry (but in no event: (i) shall the building floor area utilized for ancillary office uses and other ancillary uses at any time be other than in accordance with the plans which were approved by the City Planning Commission under ULURP Nos. C 000272 MMQ, C 000304 ZMQ, C 000305 PPQ, and further approved by the Council of the City of New York under Resolutions Nos. 1731, 1732 and 1733, and (ii) shall the building floor area utilized for ancillary office uses and other ancillary uses for five (5) years from the date hereof be greater than (a) 35% of the floor area in the first building constructed on any of the Lots, (b) 35% of the floor area in the second building that is constructed on any of the Lots, (c) 55% of the floor area in the third building that is constructed on any of the Lots, and (d) that percentage of floor area in the fourth and any subsequent building that is constructed on any of the Lots, which will cause the percentage of such uses for all buildings on the premises to be not greater than 37%.) Such a fourth building shall be substantially completed within nine (9) months after the substantial completion of the third building, subject to Unavoidable Delays. Failure of such a fourth building to be substantially completed or used, or any subsequent

building to be used, as required above shall constitute a violation of the use requirements of this deed. The premises shall be used for no other purposes, in violation of the restrictions set forth above except with the prior written approval of Grantor, which approval will not be unreasonably withheld if Grantor determines that a change in use is reasonable in light of the economic environment then in effect. In addition, any proposed material change in the use of the premises and Lots from the required use set forth above, that will also necessitate the performance of any additional excavation work beyond that required in connection with such required use, shall also require the prior approval of DEP. The above restrictions and covenants shall run with the land. The above restrictions and covenants shall be of no further force and effect after a foreclosure sale or a transfer in lieu of foreclosure by an institutional lender securing (i) purchase money acquisition financing with regard to the purchase of the premises by Grantee (or the purchase of any of the Lots by the Purchasing Affiliates,) (ii) construction financing with regard to permitted construction on the premises or any of the Lots or (iii) a permanent "take-out" loan with regard to such construction financing or subsequent refinancing of such permanent "take-out" loan.

(d) Grantee and the Purchasing Affiliates, on behalf of themselves and their successors and assigns, covenant and agree that, for a period of five (5) years from the date hereof, they shall not convey the premises or any Lots (or any improvements thereon) or any interest in either, except (i) with the prior written approval of Grantor (after receipt of any request for such approval, Grantor shall not unreasonably delay the approval or disapproval of such request) or (ii) to IDA in connection with financial assistance provided to Grantee or a Purchasing Affiliate by IDA in connection with Grantee's purchase of the premises or the Purchasing Affiliates purchases of their respective Lots or performance of the Work; provided, however, that Grantee and the Purchasing Affiliates, and their successors and assigns may not convey the premises or any of the Lots (or any improvements thereon) or any interest in either at any time (except to IDA as indicated above) until (A) one (1) or more buildings containing (in aggregate) a minimum of 250,000 square feet of floor area to be constructed on the premises and Lots pursuant to this deed has been completed, and (B) the Utility Work and Cleanup Work has been completed. In addition to the foregoing, IDA or any successor agency may reconvey the premises (including any improvements thereon) back to Grantee and any of the Lots (including any improvements

thereon) back to the respective Purchasing Affiliate who initially purchased such Lot from Grantee. The above restrictions and covenants in this paragraph shall run with the land. The above restrictions and covenants in this paragraph shall not prohibit, or apply to, or be of any further force or effect in the event of, a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an institutional lender (i) securing financing with regard to the purchase of the premises by Grantee or the purchase of the Lots by the respective Purchasing Affiliates, (ii) construction financing with regard to permitted construction on the premises or any of the Lots, or (iii) a permanent "take-out" loan with regard to such construction financing or refinancing thereof, nor to any sale or other transfer subsequent to such a foreclosure sale or transfer in lieu of foreclosure. In addition to the foregoing, until the later of (x) the first date on which all the conditions set forth in clauses (A), and (B) of the first sentence of this subsection (d) have been met, and (y) five (5) years from the date hereof, any additional member in Grantee or any additional member in any of the Purchasing Affiliates, and any change in the interest of any member of Grantee in Grantee, or in the interest of any member of a Purchasing Affiliate in the Purchasing Affiliates must be approved in writing by Grantor. Grantee and each of the Purchasing Affiliates agrees to provide Grantor with such information as Grantor reasonably requires in deciding whether to give any approval required hereby. Any request for approval by Grantor of any of the above matters, and any notice to Grantor, and any notice of approval or disapproval by Grantor, shall be in writing and given by mailing the same by certified or registered mail addressed as follows: if to Grantor, New York City Economic Development Corporation, 110 William Street, New York, New York 10038, Attn: President; if to Grantee, or to any of the Purchasing Affiliates, to International Airport Centers L.L.C., 1849 Green Bay Road, 4th Floor, Highland Park, IL 60035, Attn: Chief Operating Officer; with a copy to Jesse Masyr, Esq., Wachtel & Masyr, LLP, 110 East 59th Street, New York, N.Y. 10022, or to such other address as either party or parties designates to the other in writing in the manner set forth above. Notwithstanding anything hereinabove contained to the contrary, Grantee and the Purchasing Affiliates shall have the right at any time without Grantor's prior consent (i) to enter into leases of all or any part of the premises or the Lots for occupancy by the tenant thereunder for uses permitted hereunder, (ii) to grant an equity interest (not exceeding ten percent (10%)) in

Grantee or in any of the Purchasing Affiliates to any such tenant in connection with such tenant's entering into a lease for all or a part of the premises or the Lots and (iii) to consummate an initial public offering or similar transaction provided (x) the net worth of the resulting entity is at least \$25 million, (y) the persons controlling Grantee and the Purchasing Affiliates (i.e., those persons holding actual, working control) remain unchanged, and (z) no owner of such successor entity with a ten percent (10%) or greater interest in such successor entity (unless the shares of such successor entity are publicly traded on a recognized stock exchange or in the over the counter market, and such owner has gained its interest by purchasing such publicly traded stock) is a Prohibited Person (as hereinafter defined). As used in herein, "Prohibited Person" means (i) any person or entity (A) that is in default or in breach, beyond any applicable grace period, of its obligations under any written agreement with Grantor or the City, or (B) that directly or indirectly controls, is controlled by, or is under common control with a person or entity that is in default or in breach, beyond any applicable grace period, of its obligations under any written agreement with Grantor or the City, unless such default or breach has been waived in writing by Grantor or the City, as the case may be; (ii) any person or entity (A) that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure, or (B) that directly or indirectly controls, is controlled by, or is under common control with a person or entity that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure; (iii) any government, or any person or entity that is directly or indirectly controlled (rather than only regulated) by a government, that is finally determined to be in violation of (including, but not limited to, any participant in an international boycott in violation of) the Export Administration Act of 1979, or its successor, or the regulations issued pursuant thereto, or any government that is, or any person or entity that, directly or indirectly, is controlled (rather than only regulated) by a government that is subject to the regulations or controls thereof; (iv) any government, or any person or entity that, directly or indirectly, is controlled (rather than only regulated) by a government, the effects of the activities of which are regulated or controlled pursuant to regulations of the United States Treasury

Department or executive orders of the President of the United States of America issued pursuant to the Trading with the Enemy Act 1917, as amended; (v) any person or entity that has received written notice of default in the payment to the City of any taxes, sewer rents or water charges, unless such default is then being contested with due diligence in proceedings in a court or other appropriate forum; and (vi) any person or entity (A) that has owned at any time in the preceding three (3) years any property which, while in the ownership of such person or entity, was acquired by the City by in rem tax foreclosure, other than a property in which the City has released or is in the process of releasing its interest to such person or entity pursuant to the Administrative Code of the City, or (B) that, directly or indirectly controls, is controlled by, or is under common control with a person or entity that has owned at any time in the preceding three (3) years any property which, while in the ownership of such person or entity, was acquired by the City by in rem tax foreclosure, other than a property in which the City has released or is in the process of releasing its interest to such person or entity pursuant to the Administrative Code of the City.

(e) Grantee and the Purchasing Affiliates, on behalf of themselves and their successors and assigns, covenant and agree that they shall implement and comply with each of the following plans for the premises that have been previously submitted to and approved by DEP; (i) the Construction Safety and Health Plan, (ii) the Stormwater Management Plan, and (iii) the Sanitary Waste Disposal Plan.

(f) Grantee and the Purchasing Affiliates, on behalf of themselves and their successors and assigns, covenant and agree that they have prepared and will implement (i) a grading plan, which has been approved by DEP and that specifies one foot of clean fill at all unpaved areas of the premises, and (ii) a lighting plan, which has been approved by DEP, that limits off-site illumination and, more particularly, limits illumination within 75 feet of the boundaries of the premises to ½ footcandle.

(g) Grantee and the Purchasing Affiliates, on behalf of themselves and their successors and assigns, covenant and agree that they shall perform the following transportation improvements pursuant to the engineering specifications of The New York City Department of Transportation ("DOT"): (i) the installation of a new signalized intersection at the main entrance of the premises on International Airport Center Boulevard, (ii) the widening of International

Airport Center Boulevard to accommodate designated left turn lanes into and out of the premises; (iii) the installation of signal timing adjustments and improved lane channelization at the International Airport Center Boulevard and Brookville Boulevard intersection, and (iv) the installation of signal timing adjustments at the intersections of Guy Brewer Boulevard with International Airport Center Boulevard, and Guy Brewer Boulevard with North Conduit and South Conduit Avenue. In addition thereto, Grantee and the Purchasing Affiliates, on behalf of themselves and their successors and assigns, covenant and agree to cooperate in the reduction of truck traffic in residential areas by funding the installation of bollards at those intersections identified by DOT, in conjunction with local community input.

(h) Grantee and the Purchasing Affiliates, on behalf of themselves and their successors and assigns, covenant and agree that: (i) they shall take title to the premises and the respective Lots subject to any covenants and restrictions of record that are applicable to the premises and specifically including those covenants and restrictions set forth in that certain Third Supplemental Agreement between The City and The Port of New York Authority, predecessor in interest to the Port Authority, dated as of May 28, 1956 and recorded Record Liber 162 CP 417, and (ii) all work to be performed to the premises pursuant to this deed will comply with the design guidelines outlined in a request for proposals dated September 9, 1996, a copy of which guidelines are annexed hereto as Exhibit A. Notwithstanding the provisions of such design guidelines, the permitted size^{and location} of any building(s) to be constructed at the premises may be as otherwise provided herein and pursuant to ULURP, and to the extent any other design guidelines conflict with provisions of this deed, the provisions of this deed shall control.

(i) In the event of acquisition by the City by condemnation or otherwise of any part or portion of the above described premises lying within the bed or lines of any street, avenue, parkway, expressway, park, public place or catchbasin, as shown on the present City Map, Grantee, and its heirs or successors and assigns (including the Purchasing Affiliates) shall only be entitled, as compensation for such acquisition by the City, to the total amount of One Dollar (\$1.00), and shall not be entitled to compensation for any buildings or structures erected thereon which may lie within the bed or lines of any street, avenue, parkway, expressway, park, public place or catchbasin so laid out and acquired. This covenant shall run with the land and shall

continue until the City Map is amended or changed to eliminate from within the bed or lines of any street, avenue, parkway, expressway, park, public place or catchbasin, any such part or portion of the premises and no longer.

(j) Grantee and the Purchasing Affiliates, on behalf of themselves and their successors and assigns, covenant not to sue Grantor or the City, and release Grantor from and waive any claims or causes of action Grantee or any of the Purchasing Affiliates or any of their successors or assigns may have against Grantor or the City, under any federal, state or local law, ordinance, rule or regulation now existing or hereafter enacted or promulgated, relating to Hazardous Substances (as hereafter defined) or other environmental conditions or matters, in, on, under, about or migrating from or onto the premises. This covenant shall run with the land. For purposes of this deed, "Hazardous Substances" shall mean any (i) "hazardous substance" as defined under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, et seq., or (ii) "hazardous waste" as defined under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., or (iii) "hazardous materials" as defined under the Hazardous Materials Transportation Authorization Act, 49 U.S.C. Section 5101 et seq., or (iv) "hazardous waste" as defined under New York Environmental Conservation Law, Section 27-0901 et seq., or (v) "hazardous substance" as defined under the Clean Water Act, 33 U.S.C. Section 1321 et seq., and the regulations adopted and publications promulgated pursuant to the above, and all other applicable laws, rules or regulations of all Federal, State and local authorities having jurisdiction over the premises.

If (1) Grantee and/or any of the Purchasing Affiliates shall fail to perform, commence or complete: (i) the Work on the premises and any of the Lots, or (ii) the fourth building on the premises required by paragraph (c) hereof, within the time and in the manner required by this deed or (2) Grantee and/or any of the Purchasing Affiliates shall fail to use, or cause to be used, the premises and the Lots for five (5) years in the manner required by this deed or (3) Grantee and/or any of the Purchasing Affiliates shall convey the premises or any of the Lots (or any improvements thereon) or any interest in either in violation of the terms of this deed, or (4) any additional member shall be admitted in Grantee or in any of the Purchasing Affiliates or there shall be any change in the interest of any member of Grantee in Grantee or in the interests of any

member of a Purchasing Affiliate in such Purchasing Affiliates, in violation of the terms of this deed, or (5) Grantee and/or any of the Purchasing Affiliates fails to fully implement and comply with the terms of any of the Plans described in paragraphs (e) and (f) of this deed, or fails to fully perform the work described in paragraph (g) of this deed, or fails to fully comply with the requirements of paragraph (h) of this deed, then Grantor may notify IAC NEW YORK L.L.C. of such failure or violation. If, within 30 days after receiving such notice, Grantee and/or any of the Purchasing Affiliates fails to cure the failure or violation (A) in the case of a failure specified in subdivision (1) above, by commencing or resuming the Work required by this deed and diligently continuing such Work until completion, or (B) in the case of a failure specified in subdivision (2) above, by causing the premises and the Lots to be used in the manner required by this deed (provided that if Grantee and/or the Purchasing Affiliates does not diligently continue such Work to completion after commencing or resuming such Work as indicated above, or does not cause to be continued such use, Grantor shall have the hereinafter described rights without any further notification to Grantee or any of the Purchasing Affiliates), or (C) in the case of a violation specified in subdivision (3) above, by reacquiring the premises and the Lots (and any improvements thereon) or any interest in either or (D) in the case of a violation specified in subdivision (4) above, by causing the reacquisition of the interest of any member of Grantee in Grantee or of any member of a Purchasing Affiliate in such Purchasing Affiliate, issued or transferred in violation of the terms of this deed, or (E) in the case of a violation specified in subdivision (5) above, by commencing, resuming or correcting the work required thereunder and diligently continuing such work until completion, (provided, if any of the cures specified in clauses A, B and E above cannot be completed within such 30 day period, if Grantee and/or any of the Purchasing Affiliates shall have commenced such cure within such 30 day period, Grantee and/or such Purchasing Affiliate shall have such additional time as is reasonably necessary to complete such cure, provided Grantee and/or the Purchasing Affiliate is, subject to Unavoidable Delays, diligently and continuously prosecuting such cure to completion), then, in addition to any remedies available to Grantor by law or by this deed, Grantor, without paying Grantee or any of the Purchasing Affiliates (or any subsequent owner of the premises or any of the Lots (or any improvements thereon) or any interest in either) any consideration, shall have the right to re-enter

and take possession of the premises and the Lots (together with any improvements thereon), and the estate conveyed hereby to Grantee and the estates to be hereafter conveyed by Grantee to the Purchasing Affiliates shall thereupon terminate, and fee simple title to the premises and the Lots and any improvements thereon, shall revert in Grantor forever in the same manner and to the same extent as if the conveyance made by this deed or the conveyances from Grantee to the Purchasing Affiliates had not been made, except, however, that Grantor's reacquisition of the premises and Lots (together with any improvements thereon) shall be subject to the lien of mortgages held by institutional lenders securing (i) financing with regard to the purchase of the premises by Grantee and/or the purchase of the Lots by the Purchasing Affiliates or (ii) construction financing with regard to construction on the premises or the Lots, and (iii) any permanent "take-out" loan with regard to such construction financing or refinancing thereof. (Notwithstanding any other provisions to the contrary that may be set forth herein, the parties agree that the scope of Grantor's above mentioned right of reacquisition of the premises and Lots (together with any improvements thereon) shall be limited as follows: (i) if the first three buildings that are constructed on the premises are used in accordance with the terms of this deed, including the percentage restrictions on ancillary office uses and other ancillary uses set forth in paragraph (c) hereof, and within the time required by this deed, there is a failure to complete a fourth building on the premises that contains an amount of floor area used for ancillary office uses and other ancillary uses such that the overall percentage of such uses for all buildings on the premises is reduced to not more than 37% of the total floor area of all buildings on the premises, or any subsequent building is constructed on the premises that causes the overall percentage average of such uses for all buildings on the premises to exceed 37% of the total floor area on the premises, the reacquisition right of Grantor, resulting from such default of the use requirements of this deed, shall be limited to the lots upon which no buildings have been built (together with any improvements thereon) and the lots on which the fourth and/or any subsequent building that is in default of the requirements of this deed have been built; and (ii) if Grantee and/or the Purchasing Affiliates fail to substantially complete the construction of the buildings at the premises and the improvements thereon in accordance with the requirements set forth in paragraph (b) of this deed, the reacquisition right of Grantor as well as the conveyance restriction

contained in Paragraph (d)(A) shall be limited in scope in the event that Grantee and/or the Purchasing Affiliates elect to construct the required 250,000 square feet of floor area at the premises in more than one building. In such event and if there is a default hereunder by Grantee and/ or the Purchasing Affiliates failing to substantially complete construction of the required 250,000 square feet of floor area in accordance with the requirements of Paragraph (b) hereof, the reacquisition right of Grantor resulting from such default of the construction requirements of this deed and also said conveyance restriction contained in Paragraph (d)(A) shall not extend to any Lot upon which Grantee or any Purchasing Affiliate has substantially completed the construction of any building or buildings of at least 62,500 square feet of floor area (provided such building is being used for purposes permitted hereunder) as of the date of such default under Paragraph (b). Grantee, the Purchasing Affiliates and Grantor acknowledge and agree that the limitation of the scope of the reacquisition right and the conveyance restriction described in the previous sentences applies only to any such Lot upon which a building or buildings containing at least 62,500 square feet of floor area are substantially constructed (and are being used for purposes permitted hereunder) as of the date of any such default and that the remaining Lots and any buildings and structures thereon shall remain fully subject to the reacquisition right and conveyance restriction. Said reacquisition right is subject to the following easements against such Lots: (i) the certain Operation and Easement Agreement dated the date hereof among Grantee and the Purchasing Affiliates which is intended to be recorded subsequent to the recordation of this deed; and (ii) any other easements of record at the time of said reacquisition for which Grantor has given its written consent.) Upon Grantor's exercise of an option hereunder to re-enter and reacquire (by providing notice of such exercise to Grantee or a Purchasing Affiliate, whichever owns the Lot to be reacquired), Grantee and the Purchasing Affiliate (and/or any subsequent owner of the premises or any of the Lots (or any improvements thereon) to be reacquired or any interest in either), upon demand by Grantor, shall execute and deliver to Grantor a deed for the premises or the Lots (and any improvements thereon) to be reacquired, in form and substance satisfactory to Grantor. The execution and delivery of the foregoing deed(s) shall not, however, be construed as a condition precedent to Grantor's acquisition, as aforesaid, of the premises and Lots (and any improvements thereon). Notices pursuant to this paragraph shall

be in writing and sent by certified or registered mail, and if to Grantee or any of the Purchasing Affiliates shall be addressed to International Airport Centers L.L.C., 1849 Green Bay Road, 4th Floor, Highland Park, IL 60035, Attn: Chief Operating Officer; with a copy to Jesse Masyr, Esq., Wachtel & Masyr, LLP, 110 East 59th Street, New York, NY 10022; and if to Grantor shall be addressed to New York City Economic Development Corporation, 110 William Street, New York, NY 10038, Attention: President, or to such other address as Grantor or Grantee designates to the other in writing in the manner indicated above. Any attorney's costs and fees of Grantor in exercising the above right to re-enter and reacquire the premises or any of the Lots (together with any improvements thereon) or any interest in either shall be paid by Grantee and/or the Purchasing Affiliates. Grantor's right to re-enter and reacquire the premises and Lots (together with any improvements thereon) shall not be applicable to the premises or a Lot during any period that title to the premises or such Lot is held by IDA. If title to only some of the Lots is held by IDA, the provisions of the prior sentence shall not limit the right of Grantor to re-enter and reacquire title to those Lots to which IDA does not hold title. Whenever Grantor, Grantee or the Purchasing Affiliates referred to in this paragraph, it shall mean Grantor and its successors and assigns or Grantee or the Purchasing Affiliates and their successors and assigns, respectively.

The conveyance pursuant to this deed is subject to the trust fund provisions of Section 13 of the New York State Lien Law.

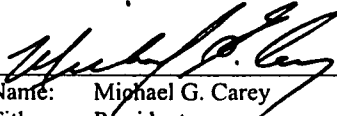
Grantee and the Purchasing Affiliates, on behalf of themselves and their successors and assigns, agree that: (i) the City is a third party beneficiary of each of their obligations contained in this Deed, and (ii) the City shall have the same rights available as Grantor to enforce any such obligations against Grantor and the Purchasing Affiliates.

The covenants of the Grantee and the Purchasing Affiliates hereunder shall run with the land and bind their successors and assigns.

IN WITNESS WHEREOF, Grantor has caused its corporate seal to be hereunto affixed

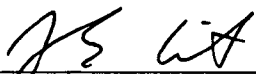
and has executed this deed by having it signed by its duly authorized officer, and Grantee and the Purchasing Affiliates have duly executed this deed, the day and year first above written.

NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION

By: 
Name: Michael G. Carey
Title: President

IAC NEW YORK L.L.C., a Delaware limited liability company

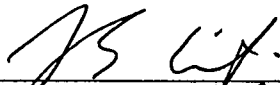
By: International Airport Centers L.L.C.,
a Delaware limited liability company, its manager

By: 
Name: JACOB CITREN
Title: MANAGING DIRECTOR

ACCEPTED AND AGREED
this 31 day of MAY 2001


IAC NEW YORK - II L.L.C., a Delaware limited liability company

By: International Airport Centers L.L.C.,
a Delaware limited liability company, its manager

By: 
Name: JACOB CITREN
Title: MANAGING DIRECTOR


IAC NEW YORK - III L.L.C., a Delaware limited liability company

By: International Airport Centers L.L.C.,
a Delaware limited liability company, its manager

By: 
Name: JACOB CITREN
Title: MANAGING DIRECTOR

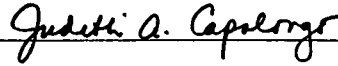
IAC NEW YORK - IV L.L.C., a Delaware limited liability company

By: International Airport Centers L.L.C.,
a Delaware limited liability company, its manager

By: 
Name: JACOB CITREN
Title: MANAGING DIRECTOR

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS:

On the 30th day of May, in the year 2001, before me, the undersigned, personally appeared Michael G. Carey, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



JUDITH A. CAPOLONGO
Commissioner of Deeds, City of New York
No. 5-1425
Cert. Filed in New York County 2001
Commission Expires October 23, 2001

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS:

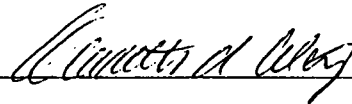
On the 31st day of May, in the year 2001, before me, the undersigned, personally appeared JACOB CITRIN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



KENNETH R. WONG
Notary Public, State of New York
No. 01WO4967932
Qualified in New York County
Commission Expires June 8, 2002

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS:

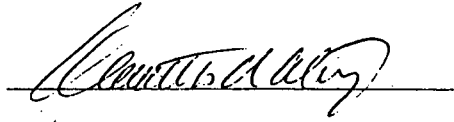
On the 31st day of May, in the year 2001, before me, the undersigned, personally appeared JACOB CITRIN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



KENNETH R. WONG
Notary Public, State of New York
No. 01WO4967932
Qualified in New York County
Commission Expires June 8, 2002

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS:

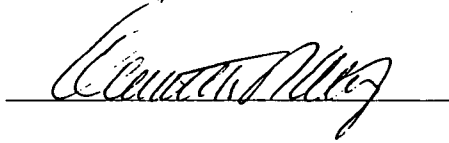
On the 31st day of May, in the year 2001, before me, the undersigned, personally appeared JACOB CITENY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



KENNETH R. WONG
Notary Public, State of New York
No. 01WO4967932
Qualified in New York County
Commission Expires June 6, 192002

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS:

On the 31st day of May, in the year 2001, before me, the undersigned, personally appeared JACOB CITENY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



KENNETH R. WONG
Notary Public, State of New York
No. 01WO4967932
Qualified in New York County
Commission Expires June 6, 192002

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS:

On the ___ day of _____, in the year 2001, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

EXHIBIT A

B. Design Guidelines

The development proposal should seek the maximum value and best use of the Site within the following guidelines:

- The proposed development must conform to FAA regulations limiting construction near runways. Preliminary review of these regulations indicates that buildings must not encroach on the clear zones of Runways 4R-22L and 4L-22R, and building height throughout the Site may be limited to 40-50 feet above the surface (see Exhibit A). The developer will need to submit a "Notice of Proposed Construction" for approval by the FAA based on an evaluation of building height, reflectivity of building materials, height and location of exterior lights and signs, etc. (Attachment A).
- The proposed development must not exceed a maximum building area of 500,000 square feet. No buildings or other structures will be located within Tracts A and B on the eastern and western edges of the Site as delineated on the Site Map.
- The proposed development must conform to the Zoning Resolution, assuming that the Site will be designated as part of an M1-1 zoning district. Proposers should consult the Zoning Resolution for permissible uses, bulk regulations, parking requirements, etc.
- The proposed development must include the following mitigation measures to alleviate potential impacts on wetlands located to the north and west of the Site: a vegetative screen of 50 to 100 feet in width that is densely vegetated with both native deciduous and evergreen trees and shrubs; capping the site with an impermeable barrier overlain by pavement or clean topsoil; locating loading facilities, parking areas and building entrances internal to the project; and outside lights should minimize light dispersal in all directions but straight down.
- The Site layout and facility design should demonstrate a consideration of the marketing strategy, facilitate secure operation, and mitigate impacts on open space, sensitive flora and fauna, and nearby residents.
- There should be a minimum of two egresses/ingresses to the Site located on Rockaway Boulevard to prevent queuing on Rockaway Boulevard.