
**INSTALLMENT SALE AGREEMENT
AND ASSIGNMENT OF LEASE**

Dated as of September 1, 2012

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, having its principal office at
110 William Street, New York, New York 10038,
as “Agency”

and

AERO JFK, LLC,

a limited liability company organized and existing under the laws of the State of Delaware, having an office at 201 West Street, Suite 200,
Annapolis, Maryland 21401,
as “Company”

\$126,875,000

New York City Industrial Development Agency
Senior Airport Facilities Revenue and Refunding Bonds
(TriPs Obligated Group), Series 2012A

Affecting the property generally described in the Appendices
to this Installment Sale Agreement and Assignment of Lease,
in Queens County, City and State of New York

Record and Return to:
Hawkins Delafield & Wood LLP
One Chase Manhattan Plaza, 42nd Floor,
New York, New York 10005
Attention: Arthur M. Cohen, Esq.

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**INSTALLMENT SALE AGREEMENT
AND ASSIGNMENT OF LEASE**

This **INSTALLMENT SALE AGREEMENT AND ASSIGNMENT OF LEASE**, made and entered into as of September 1, 2012 (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, having its principal office at 110 William Street, New York, New York 10038, party of the first part, and **AERO JFK, LLC**, a limited liability company organized and existing under the laws of the State of Delaware, having an office at 201 West Street, Suite 200, Annapolis, Maryland 21401, party of the second part (capitalized terms used but not defined herein shall have the respective meanings assigned to such terms in Section 1.1 of this Agreement);

WITNESSETH:

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns in the State 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 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 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 the Agency Act for the benefit of the City and the inhabitants thereof, and is authorized to acquire real property and interests therein, buildings and other improvements thereon and machinery and equipment in connection therewith for the purposes set forth above, and to sell the same as herein more particularly described; and

WHEREAS, the Agency is further authorized by the Act to issue its special obligation bonds payable solely from and secured by the revenues derived from the sale of the land, buildings and other improvements and the machinery and equipment so acquired; and

WHEREAS, Airis JFK I, LLC, a Delaware limited liability company ("**Airis JFK I**") entered into negotiations with the Agency for the construction and equipping of two industrial and warehousing facilities consisting of (y) the construction of an approximately 262,515 square foot air cargo and aircraft related service facility at a site known as Tract 8 in Cargo Area B at John F. Kennedy International Airport, Queens, New York (the "**Airport**"), the construction of site improvements, and the acquisition and installation of equipment to constitute fixtures in connection therewith, and (z) the construction of an approximately 172,100 square foot air cargo and aircraft related service facility at a site known as Tract 9A in Cargo Area B at the Airport, the construction of site improvements, and the acquisition and installation of

equipment to constitute fixtures in connection therewith, all for use in providing air cargo and aviation support facilities to tenants conducting aviation related activities (collectively, the “**2001 Project**”); and

WHEREAS, the Tract 8 Facility is located on a portion of those certain premises located in Tract 8 in Cargo Area B at the Airport, which premises (i) are subject to the terms of the Basic Lease, and (ii) were subleased by the Port Authority to Airis JFK I pursuant to the Tract 8 Ground Lease; and

WHEREAS, the Tract 9A Facility is located on a portion of those certain premises located in Tract 9A in Cargo Area B at the Airport, which premises (i) are subject to the Basic Lease, and (ii) were subleased by the Port Authority to Airis JFK II, LLC, a Delaware limited liability company (“**Airis JFK II**”) and an affiliate of Airis JFK I, pursuant to the Tract 9A Ground Lease; and

WHEREAS, pursuant to an Assignment and Assumption of Lease dated as of August 1, 2001, Airis JFK II assigned the Tract 9A Ground Lease to Airis JFK I with the prior written consent of the Port Authority, and Airis JFK I assumed all obligations of Airis JFK II thereunder; and

WHEREAS, pursuant to the Act, a resolution adopted by the Agency on January 9, 2001, as amended, restated and consolidated on February 13, 2001, and an Indenture of Trust dated as of August 1, 2001 between the Agency and The Bank of New York (predecessor to The Bank of New York Mellon), as Trustee, the Agency issued its Special Airport Facility Revenue Bonds (2001 Airis JFK I, LLC Project at JFK International Airport), Series 2001A, in the aggregate principal amount of \$152,675,000 (the “**Series 2001A Bonds**”) to provide funds for a portion of the costs of the 2001 Project; and

WHEREAS, on April 29, 2005, the Company acquired by purchase the interest of Airis JFK I in and to the Tract 8 Facility and the Tract 9A Facility (including the Tract 8 Ground Lease and the Tract 9A Ground Lease), and assumed all obligations of Airis JFK I under the Tract 8 Ground Lease and the Tract 9A Ground Lease, as well as under all of the bond financing documents entered into by Airis JFK I in connection with the issuance and delivery of the Series 2001A Bonds; and

WHEREAS, the Company has requested that the Agency refund the Series 2001A Bonds in whole; and

WHEREAS, in order to refund the Series 2001A Bonds in whole, the Agency intends to issue, pursuant to the Act, the Bond Resolution and the Indenture, its Senior Airport Facilities Revenue and Refunding Bonds (TriPs Obligated Group), Series 2012A in the aggregate principal amount of \$126,875,000 (the “**Initial Bonds**”) to provide funds to refund in whole the Series 2001A Bonds, to fund the Debt Service Reserve Fund under the Indenture, and to pay the costs and expenses of the issuance of the Initial Bonds; and

WHEREAS, certain affiliates of the Company have entered into various bond financing transactions throughout the country, and certain of such affiliates (collectively,

together with the Company, the “**Obligated Group**”) desire to refund certain of such other bond financings (the “**Other Bond Financing**”) through the issuance of revenue bonds by the Public Finance Authority, a unit of government organized under the laws of the State of Wisconsin; and

WHEREAS, to facilitate the refunding of the Series 2001A Bonds and the issuance by the Agency of its Initial Bonds for such purpose, the Agency and the Company have entered into negotiations pursuant to which (i) the Company will sublease the Facilities to the Agency pursuant to the Company Sublease, and (ii) the Agency will sell and assign its subleasehold interest in the Facilities under the Company Sublease to the Company pursuant to this Agreement; and

WHEREAS, in order to provide common collateral for the Initial Bonds and the Other Bond Financing, it is intended that:

(i) the Obligated Group will enter into the Master Trust Indenture with the Master Trustee pursuant to which, among other matters, the Obligated Group will pledge and grant a security interest to the Master Trustee in all Gross Revenues to be paid to, administered and disbursed by the Master Trustee; and

(ii) pursuant to the Mortgage, (y) the Company will grant to the Master Trustee a mortgage lien on and a security interest in its interest in the Facilities, including, in particular, the Tract 8 Ground Lease, the Tract 9A Ground Lease, the Company Sublease and this Agreement, including an assignment of leases and rents with respect to all Facility Leases and rentals paid or payable thereunder, and (z) the Agency will grant to the Master Trustee a mortgage lien on and a security interest in its interest in the Facilities under the Company Sublease, all as security for the Obligations to the extent set forth in the Master Trust Indenture; and

WHEREAS, in connection with the issuance of the Initial Bonds:

(i) the Obligated Group will deliver the Initial Bonds Master Note to the Trustee to constitute a Senior Obligation under the Master Trust Indenture;

(ii) pursuant to the Special Covenants Agreement, the Group Representative will provide certain representations, warranties, covenants and agreements on behalf of the Obligated Group for the benefit of the Agency and the Trustee; and

(iii) pursuant to the Project Indemnification Agreement, each of the Indemnitors (as defined therein) will indemnify the Agency and the Trustee as and to the extent set forth therein;

NOW, THEREFORE, in consideration of the premises and the respective representations and agreements hereinafter contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

Section 1.1. Definitions. In addition to the definitions set forth in Sections 5.3(a), 5.4 and 8.1(a), the following terms shall have the respective meanings in this Agreement:

Act shall mean, collectively, the Enabling Act and the Agency Act.

Additional Bonds shall mean one or more Series of additional bonds issued, executed, authenticated and delivered under the Indenture.

Additional Improvements shall have the meaning specified in Section 3.5(a).

Additional Payments shall have the meaning specified in Section 4.9.

Affiliate shall mean, with respect to any Person, any Person which controls, is controlled by or is under common control with 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.

Agency Act shall mean Chapter 1082 of the 1974 Laws of New York, as amended.

Agency's Reserved Rights shall mean, collectively,

(i) the right of the Agency in its own behalf to receive all Opinions of Counsel, reports, financial statements, certificates, insurance policies, binders or certificates, or other notices or communications required to be delivered to the Agency under this Agreement;

(ii) the right of the Agency to grant or withhold any consents or approvals required of the Agency under this Agreement;

(iii) the right of the Agency to exercise in its own behalf its rights under Section 3.7 with respect to the proceeds of leasehold title insurance;

(iv) the right of the Agency to enforce or otherwise exercise in its own behalf all agreements of the Company with respect to ensuring that the Facilities shall always constitute the Approved Facilities and a qualified "project" as defined in and as contemplated by the Act;

(v) the right of the Agency to amend with the Company the provisions of Section 5.3 or 5.4 without the consent of the Trustee, any Bondholder or any other Person;

(vi) the right of the Agency in its own behalf (or on behalf of the appropriate taxing authorities) to enforce, receive amounts payable under or otherwise exercise its rights under Sections 3.3, 3.4, 3.5, 3.6, 3.7, 4.4, 4.5, 4.6, 4.7, 4.9, 5.1, 5.2, 5.3, 5.4, 6.1, 6.3, 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 8.9, 8.10, 8.11, 8.12, 8.13, 8.14, 8.15, 8.16, 8.17, 8.18, 8.19, 8.20, 8.22, 8.23, 8.24, 8.28, 8.30, 8.31, 8.33, 9.1, 9.2, 9.3, 9.4, 9.5, 9.6, 9.7, 9.8, 9.9, 10.1, 10.2, 10.3, 11.1, 11.3, 12.1, 12.3, 12.4, 12.5, 12.6, 12.11, 12.13 and 12.14; and

(vii) the right of the Agency in its own behalf to declare a default with respect to any of the Agency's Reserved Rights and exercise the remedies set forth in Section 9.2(b).

Agreement shall mean this Installment Sale Agreement and Assignment of Lease, dated as of September 1, 2012, between the Agency and the Company, and shall include any and all amendments hereof and supplements hereto hereafter made in conformity herewith and with the Indenture.

Airis JFK I shall mean Airis JFK I, LLC, a limited liability company organized and existing under the laws of the State of Delaware, and the predecessor in interest to the Company in the Facilities.

Airis JFK II shall mean Airis JFK II, LLC, a limited liability company organized and existing under the laws of the State of Delaware, and the predecessor in interest to Airis JFK I in the Tract 9A Facility.

Airport shall mean John F. Kennedy International Airport in Queens, New York.

Annual Administrative Fee shall mean that annual administrative fee established from time to time by the Agency's Board of Directors as generally applicable to Entities receiving or that have received Financial Assistance (subject to such exceptions from such general applicability as may be established by the Agency's Board of Directors).

Approved Facilities shall mean the Facilities as occupied, used and operated by the Company substantially for the Approved Project Operations, including such other activities as may be substantially related to or substantially in support of such operations, all to be effected in accordance with this Agreement.

Approved Project Operations shall mean the facilities located at the Facility Site for use by the Company in providing air cargo and aviation support facilities to tenants conducting aviation related activities.

Architectural Consultant shall have the meaning set forth for such term in the Master Trust Indenture.

Authorized Denomination shall mean, in the case of the Initial Bonds, \$5,000 or any integral multiple thereof.

Authorized Principal Amount shall mean, in the case of the Initial Bonds, \$126,875,000.

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, or any other officer or employee of the Agency who is authorized to perform specific acts or to discharge specific duties, and (ii) in the case of the Company, the Group Representative or a person named in Exhibit A — “Authorized Representative”, or any other officer or employee of the Company who is authorized to perform specific duties hereunder or under any other Project Document and of whom another Authorized Representative of the Company has given written notice to the Agency and the Trustee; provided, however, that in each case for which a certification or other statement of fact or condition is required to be submitted by an Authorized Representative to any Person pursuant to the terms of this Agreement or any other Project Document, such certificate or statement shall be executed only by an Authorized Representative in a position to know or to obtain knowledge of the facts or conditions that are the subject of such certificate or statement.

Basic Lease shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals, dated November 24, 2004, as the same may now or hereafter be amended and supplemented, between the City and the Port Authority.

Beneficial Owner shall mean, whenever used with respect to an Initial Bond, the Person in whose name such Initial Bond is recorded as the Beneficial Owner of such Initial Bond by the respective systems of DTC and each of the Participants of DTC. If at any time the Initial Bonds are not held in the Book-Entry System, Beneficial Owner shall mean “Holder” for purposes of the Security Documents.

Benefits shall have the meaning set forth in Section 5.4(a).

Bond Counsel shall mean Hawkins Delafield & Wood LLP or an attorney or firm of attorneys selected by the Agency and not unacceptable to the Trustee, recognized, by inclusion in the listing of attorneys in the Bond Buyer’s Municipal Market Place as most recently issued, as a national expert in the field of municipal finance.

Bond Fund shall mean the special trust fund so designated, established pursuant to Section 5.01 of the Indenture.

Bondholder, Holder of Bonds, Holder or holder shall mean any Person who shall be the registered owner of any Bond or Bonds.

Bond Registrar shall mean the Trustee acting as registrar as provided in Section 3.10 of the Indenture.

Bond Resolution shall mean the resolution of the Agency adopted on June 12, 2012 authorizing the issuance of the Initial Bonds.

Bonds shall mean the Initial Bonds and any Additional Bonds.

Business Day shall mean any day other than a Saturday, Sunday or a day on which banking institutions in Montreal, Canada, Chicago, Illinois, Annapolis, Maryland, New York, New York and/or the cities in which the principal corporate trust or principal operations offices of the Master Trustee and the Trustee to whom a payment is to be made, as applicable, are located are authorized or obligated by law or executive order to be closed or the New York Stock Exchange is closed.

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

Claims shall have the meaning set forth in Section 8.2(a).

Closing Date shall mean September 13, 2012, the date of the initial issuance and delivery of the Initial Bonds.

Code shall mean the Internal Revenue Code of 1986, as amended, including the regulations thereunder. All references to Sections of the Code or regulations thereunder shall be deemed to include any such Sections or regulations as they may hereafter be renumbered in any subsequent amendments to the Code or such regulations.

Company shall mean Aero JFK, LLC, a limited liability company organized and existing under the laws of the State of Delaware, and its successors and assigns; provided, however, that nothing contained in this definition shall be deemed to limit or modify the obligations of the Company under Section 8.9 or 8.20 or Section 6.9 of the Master Trust Indenture.

Company Sublease shall mean the Amended and Restated Company Sublease Agreement, dated as of even date herewith, between the Company, as landlord, and the Agency, as tenant, as the same may be amended and supplemented in accordance with its terms and the terms of the Indenture.

Condemnation Event shall have the meaning set forth in Section 6.1.

Conduct Representation shall mean any representation by the Company under Section 2.2(dd), or by any other Person in any Required Disclosure Statement delivered to the Agency.

Consent shall mean the Consent Agreement, dated as of September 1, 2012, among the Company, the Agency, the Master Trustee, the Trustee and the Port Authority, as the same may be amended or supplemented.

Continuing Disclosure Agreement shall mean the Continuing Disclosure Agreement, dated the Closing Date, between the Group Representative and Digital Assurance

Certification, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Control or Controls, including the related terms “controlled by” and “under common control with”, shall mean the power to direct the management and policies of a Person (x) through the ownership, directly or indirectly, of not less than a majority of its voting securities, (y) through the right to designate or elect not less than a majority of the members of its board of directors or trustees or other Governing Body, or (z) by contract or otherwise.

Costs of Issuance shall mean issuance costs with respect to the Initial Bonds described in Section 147(g) of the Code and any regulations thereunder, including but not limited to the following: Underwriters’ spread (whether realized directly or derived through purchase of the Initial Bonds at a discount below the price at which they are expected to be sold to the public), counsel fees (including bond counsel, counsel to the Underwriters, Trustee’s counsel, Agency’s counsel, Company’s counsel, as well as any other specialized counsel fees incurred in connection with the borrowing); financial advisor fees of any financial advisor to the Agency or the Company incurred in connection with the issuance of the Initial Bonds; engineering and feasibility study costs; guarantee fees (other than Qualified Guarantee Fees, as defined in the Tax Regulatory Agreement); Rating Agency fees; accountant fees and other expenses related to issuance of the Initial Bonds; printing costs (for the Initial Bonds and of the preliminary and final Official Statement relating to the Initial Bonds); printing costs for the Initial Bonds and offering documents; public approval and process costs; fees and expenses of the Agency incurred in connection with the issuance of the Initial Bonds; and Blue Sky fees and expenses; and similar costs.

Credit Facility shall have the meaning assigned to that term in the Master Trust Indenture.

Damage Event shall have the meaning set forth in Section 6.1.

Debt Service Reserve Fund shall mean the special trust fund so designated, established pursuant to Section 5.01 of the Indenture.

Defeasance Collateral shall mean

(i) non-callable direct obligations of the United States of America, non-callable and non-prepayable direct federal agency obligations the timely payment of principal of and interest on which are fully and unconditionally guaranteed by the United States of America, non-callable direct obligations of the United States of America which have been stripped by the United States Treasury itself or by any Federal Reserve Bank (not including “CATS,” “TRS” and “TIGRS”) and the interest components of REFCORP bonds for which the underlying bond is non-callable (or non-callable before the due date of such interest component) for which separation of principal and interest is made by request to the Federal Reserve Bank of New York in book-entry form, and shall exclude investments in mutual funds and unit investment trusts;

(ii) non-callable obligations the timely payment of principal and interest on which are fully and unconditionally guaranteed by the United States of America; and

(iii) bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local government unit of any such state (x) which are not callable at the option of the obligor or otherwise prior to maturity or as to which irrevocable notice has been given by the obligor to call such bonds or obligations on the date specified in the notice, (y) timely payment of which is fully secured by a fund consisting only of cash or obligations of the character described in clause (i) or (ii) which fund may be applied only to the payment when due of such bonds or other obligations, and (z) which are rated at least "AA+" by S&P or Fitch or at least "Aa3" by Moody's.

Determination of Taxability shall mean, with respect to any Initial Bonds, a determination that the interest income on any Initial Bond does not qualify as being excludable from the gross income of the Holder thereof ("exempt interest") for any reason other than that such Holder is a "substantial user" of the Facilities or a "related person" as such terms are defined in Section 147 of the Code, which determination shall be deemed to have been made upon the first to occur of any of the following:

(i) the date on which any change in law or regulation becomes effective or on which the Internal Revenue Service issues any private ruling, technical advice memorandum or any other written communication to the effect that the interest income on any of the Initial Bonds does not qualify as exempt interest; or

(ii) the date on which the Company shall receive notice from the Trustee in writing that the Trustee has been advised by any Holder or former Holder that the Internal Revenue Service has issued a thirty-day letter or other notice which asserts that the interest on any such Initial Bond does not qualify as such exempt interest; or

(iii) the date on which the Trustee receives written notice from any Bondholder that the Company or the Agency has taken any action inconsistent with, or has failed to act consistently with, the tax exempt status of interest on the Initial Bonds;

provided that no Determination of Taxability shall be deemed to have occurred as a result of a determination by any Bondholder pursuant to clause (iii) above unless such determination is supported by an opinion of Nationally Recognized Bond Counsel to the effect that the interest income on Initial Bonds does not constitute exempt interest and that the Initial Bonds do not qualify for a remedial action under the applicable regulations, compliance with which would render the interest on the Initial Bonds tax exempt. With respect to any other Bonds, "Determination of Taxability" shall have the meaning, if any, provided in the Supplemental Indenture authorizing the issuance of such Bonds.

DOL shall have the meaning set forth in Section 8.7(c).

DTC shall mean The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and its successors and assigns.

Due Date shall have the meaning set forth in Section 9.9(a).

Earnings Fund shall mean the special trust fund so designated, established pursuant to Section 5.01 of the Indenture.

Employment Information shall have the meaning set forth in Section 8.7(c).

Enabling Act shall mean the New York State Industrial Development Agency Act, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended.

Entity shall mean any of a corporation, general partnership, limited liability company, limited liability partnership, joint stock company, trust, estate, unincorporated organization, business association, tribe, firm, joint venture, governmental authority or governmental instrumentality, but shall not include an individual.

Environmental Regulations shall mean any federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating to dangerous, toxic or hazardous pollutants, Hazardous Substances, chemical waste, materials or substances.

Event of Default shall have the meaning specified in Section 9.1.

Exempt Mortgage shall have the meaning specified in Section 5.3(a).

Existing Facility Leases shall mean those Facility Leases as shall be in effect on the Closing Date, and having the terms set forth in the Description of Existing Facility Leases attached to this Agreement as Exhibit D and made a part hereof.

Existing Facility Property shall have the meaning set forth in Section 3.5(a).

Expiration Date shall mean July 2, 2028, 11:59p.m. (New York City Time).

Facilities shall mean, collectively, the Tract 8 Facility and the Tract 9A Facility.

Facility Equipment shall mean, collectively, the Tract 8 Facility Project Equipment and the Tract 9A Facility Project Equipment.

Facility Leases shall mean, collectively, all leases or other occupancy or use agreements, other than the Basic Lease, the Ground Leases, the Company Sublease and this Agreement, entered into with any Person for the use, possession or occupancy of either or both of the Facilities or any portion thereof, and shall include all Existing Facility Leases.

Facility Site or Land shall mean, collectively, the Tract 8 Facility Site and the Tract 9A Facility Site.

Facility Tenants shall mean all Persons as shall use, possess or occupy all or any portion of the Facilities pursuant to a Facility Lease.

Favorable Opinion of Bond Counsel shall mean, with respect to any action the occurrence of which requires such an opinion, an unqualified Opinion of Counsel, which shall be a Bond Counsel, to the effect that such action is permitted under the Act and the Indenture and will not adversely affect the exclusion of interest on the Bonds from gross income for purposes of Federal income taxation (subject to the inclusion of any exceptions contained in the opinion delivered upon original issuance of the Bonds).

Financial Assistance shall have the meaning assigned to that term in the Enabling Act.

Fiscal Year shall have the meaning assigned to that term in the Master Trust Indenture.

Fitch shall mean Fitch, Inc., a Delaware corporation, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Fitch" shall be deemed to refer to any other nationally recognized securities rating agency selected by the Group Representative, by notice to the other Notice Parties.

Fixed Date Deliverables shall have the meaning set forth in Section 9.9(a)(ii).

GAAP shall mean those generally accepted accounting principles and practices that are recognized as such by the American Institute of Certified Public Accountants or by the Financial Accounting Standards Board or through other appropriate boards or committees thereof, and that are consistently applied for all periods, after the Commencement Date, so as to properly reflect the financial position of the Company, except that any accounting principle or practice required to be changed by the Financial Accounting Standards Board (or other appropriate board or committee of the said Board) in order to continue as a generally accepted accounting principle or practice may be so changed.

Governing Body shall mean, when used with respect to any Person, its board of directors, board of trustees or individual or group of individuals by, or under the authority of which, the powers of such Person are exercised.

Government Obligations shall have the meaning set forth in the Master Trust Indenture.

Gross Revenues shall have the meaning assigned to such term in the Master Trust Indenture.

Ground Leases shall mean, collectively, the Tract 8 Ground Lease and the Tract 9A Ground Lease.

Group Representative shall mean a Person at the time designated to act on behalf of the Members of the Obligated Group for purposes of the Indenture and the other Security Documents in accordance with the Master Trust Indenture.

Hazardous Substances shall mean

(i) any oil, flammable substance, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, materials or pollutants which (a) pose a hazard to the Facilities or to persons on or about the Facilities or (b) cause the Facilities to be in violation of any Environmental Regulation;

(ii) asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls, or radon gas;

(iii) any chemical, material or substance defined as or included in the definition of "waste," "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," or "toxic substances" or words of similar import under any Environmental Regulation including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 USC §§ 9601 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 USC §§ 6901 et seq.; the Hazardous Materials Transportation Act, 49 USC §§ 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §§ 1251 et seq. and any state environmental law or regulation applicable to the Facilities;

(iv) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority or agency or may or could pose a hazard to the health and safety of the occupants of the Facilities or the owners and/or occupants of property adjacent to or surrounding the Facilities, or any other person coming upon the Facilities or adjacent property; or

(v) any other chemical, materials or substance which may or could pose a hazard to the environment.

Highest Lawful Rate shall mean the maximum rate of non-usurious interest allowed from time to time by law as is in effect as of the Closing Date or, to the extent permitted by law, such higher rate as may hereafter be in effect.

Impositions shall have the meaning set forth in Section 8.17(a).

Improvements shall mean, collectively, the Tract 8 Facility Improvements and the Tract 9A Facility Improvements.

Indebtedness shall have the meaning assigned to that term by the Master Trust Indenture.

Indemnification Commencement Date shall mean October 11, 2000, the date on which the Agency first adopted a resolution with respect to the 2001 Project.

Indemnified Parties shall have the meaning set forth in Section 8.2(a).

Indenture shall mean the Indenture of Trust, dated as of even date herewith, between the Agency and the Trustee, as from time to time amended or supplemented by Supplemental Indentures in accordance with Article XI of the Indenture.

Independent Insurance Consultant shall mean such person (not an employee of either the Agency or the Company or any Affiliate thereof, nor having any substantial interest, direct or indirect, in the Company, nor connected with the Company as a director, officer or employee of the Company) having recognized expertise in insurance matters, selected by the Company by notice in writing to the Agency, the Trustee and the Master Trustee.

Independent Public Accountant shall have the meaning set forth for such term in the Master Trust Indenture.

Information Recipients shall have the meaning set forth in Section 8.7(c).

Initial Annual Administrative Fee shall mean \$850.

Initial Bonds shall mean the Agency's \$126,875,000 Senior Airport Facilities Revenue and Refunding Bonds (TriPs Obligated Group), Series 2012A authorized, issued, executed, authenticated and delivered under the Indenture.

Initial Bonds Master Note shall mean that Senior Master Indenture Promissory Note, Series 2012-1, dated the Closing Date and delivered by the Obligated Group pursuant to the Master Trust Indenture in favor of the Trustee, as the same may be amended or supplemented from time to time.

Installment Purchase Payment Date shall mean the Business Day immediately prior to any date on which the principal, Sinking Fund Installments, Redemption Price of, or interest on, the Bonds is due.

Interest Account shall mean the special trust account of the Bond Fund so designated, established pursuant to Section 5.01 of the Indenture.

Interest Payment Date shall mean, with respect to the Initial Bonds, January 1 and July 1 of each year, commencing January 1, 2013, and with respect to any Series of Additional Bonds, the dates set forth therefor in the Supplemental Indenture pursuant to which such Series of Additional Bonds are issued.

Legal Requirements shall mean the Constitutions of the United States and the State of New York and all laws, statutes, codes, acts, ordinances, resolutions, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, certificates of occupancy, directions and requirements (including zoning, land use, planning, environmental protection, air, water and land pollution, toxic wastes, hazardous wastes, solid wastes, wetlands, health, safety, equal opportunity, minimum wages, and employment practices) of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, including those of the City, foreseen or unforeseen, ordinary or extraordinary, that are applicable now or may be applicable at any time hereafter to (i) the Company or any Facility

Tenant, (ii) either or both of the Facilities or any part of either thereof, or (iii) any use or condition of either or both of the Facilities or any part of either thereof.

Letter of Representation and Indemnity Agreement shall mean the Letter of Representation, dated August 24, 2012, from the Group Representative on behalf of the Obligated Group to the Agency and the Underwriters of the Initial Bonds.

Liability shall have the meaning set forth in Section 8.2(a).

Liens shall have the meaning specified in Section 8.11(a).

Loss Event shall have the meaning specified in Section 6.1.

Majority Holders shall mean the Beneficial Owners of at least a majority in aggregate principal amount of the Bonds Outstanding, or, if the Bonds shall cease to be in book-entry form, the Holders of at least a majority in aggregate principal amount of the Bonds Outstanding.

Master Trust Documents shall mean the Master Trust Indenture, the Mortgage and the Consent.

Master Trustee shall mean Wells Fargo Bank, National Association, as master trustee under the Master Trust Indenture, and its successors and assigns thereunder.

Master Trust Indenture shall mean that certain Master Trust Indenture (Security Agreement), dated as of even date herewith, between the Members of the Obligated Group and the Master Trustee, as supplemented by that certain First Supplemental Master Trust Indenture dated as of even date herewith, as the same may be further amended and supplemented from time to time.

Material Adverse Effect shall have the meaning assigned to that term by the Master Trust Indenture.

Member or **Members** shall have the respective meanings assigned such terms under the Master Trust Indenture.

Merge shall have the meaning specified in Section 8.20(a)(v).

Minor New Facility Leases shall mean a New Facility Lease which, at the time of execution,

(i) encompasses no more than 10,000 rentable square feet of premises within the Facilities,

(ii) is with a Facility Tenant, with respect to which no other Facility Leases exist,

(iii) is not with respect to an occupant, user or operator under any other portion of the Facilities, and

(iv) no more than 40,000 rentable square feet comprising the Facilities, including the proposed New Facility Lease, shall be the subject of Minor Facility Leases.

Moody's shall mean Moody's Investors Service Inc., a Delaware corporation, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency selected by the Group Representative, by notice to the other Notice Parties.

Mortgage shall mean the Leasehold Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing, dated as of even date herewith, from the Company and the Agency to the Master Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with the Master Trust Indenture.

Nationally Recognized Bond Counsel shall mean counsel acceptable to the Agency and the Trustee and experienced in matters relating to tax exemption of interest on bonds issued by states and their political subdivisions.

New Facility Lease shall mean a Facility Lease executed after the Closing Date; provided, however, that an extension of or amendment to an Existing Facility Lease shall not be deemed to be a New Facility Lease.

Net Proceeds shall have the meaning assigned to such term by the Master Trust Indenture.

Notice Parties shall mean the Agency, the Company, the Group Representative, the Bond Registrar, the Paying Agents, the Trustee and the Master Trustee.

Notification of Failure to Deliver shall have the meaning specified in Section 9.9(b).

NYCDOF shall have the meaning specified in Section 5.1(a).

NYCEDC shall mean New York City Economic Development Corporation, and any successor thereof.

Obligated Group shall have the meaning assigned to that term by the Master Trust Indenture.

Obligations shall have the meaning assigned to that term by the Master Trust Indenture.

Operations Commencement Date shall have the meaning set forth in Section 5.4(a).

Opinion of Counsel shall mean a written opinion of counsel for the Company or any other Person or Persons (which counsel shall be reasonably acceptable to the Agency and the Trustee) with respect to such matters as required under any Project Document or as the Agency or the Trustee may otherwise reasonably require, and which shall be in form and substance reasonably acceptable to the Agency and the Trustee.

Other Bond Financing shall mean the Public Finance Authority's \$189,400,000 Senior Airport Facilities Revenue and Refunding Bonds (TrIPs Obligated Group), Series 2012B, \$27,675,000 Senior Airport Facilities Revenue and Refunding Bonds (TrIPs Obligated Group), Series 2012C, \$11,535,000 Subordinate Class B Airport Facilities Revenue and Refunding Bonds (TrIPs Obligated Group), Series 2012D, \$16,375,000 Senior Airport Facilities Revenue and Refunding Bonds (TrIPs Obligated Group), Series 2012E, \$54,465,000 Subordinate Class B Airport Facilities Revenue and Refunding Bonds (TrIPs Obligated Group), Series 2012F, and \$6,100,000 Senior Airport Facilities Revenue and Refunding Bonds (TrIPs Obligated Group), Series 2012G.

Outstanding, when used with reference to a Bond or Bonds, as of any particular date, shall mean all Bonds which have been issued, executed, authenticated and delivered under the Indenture, except:

(i) Bonds cancelled by the Trustee because of payment or redemption prior to maturity or surrendered to the Trustee under the Indenture for cancellation;

(ii) any Bond (or portion of a Bond) for the payment or redemption of which, in accordance with Article X of the Indenture, there has been separately set aside and held in the Redemption Account of the Bond Fund either:

(A) moneys, and/or

(B) Defeasance Collateral in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications as shall be necessary to provide moneys,

in an amount sufficient to effect payment of the principal or applicable Redemption Price of such Bond, together with accrued interest on such Bond to the payment or redemption date, which payment or redemption date shall be specified in irrevocable instructions given to the Trustee to apply such moneys and/or Defeasance Collateral to such payment on the date so specified, provided, that, if such Bond or portion thereof is to be redeemed, notice of such redemption shall have been given as provided in the Indenture or provision satisfactory to the Trustee shall have been made for the giving of such notice; and

(iii) Bonds in exchange for or in lieu of which other Bonds shall have been authenticated and delivered under Article III of the Indenture,

provided, however, that in determining whether the Holders of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver hereunder or under any other Security Document, Bonds owned by the Company or any Affiliate thereof shall be disregarded and deemed not to be

Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded. Bonds which have been pledged in good faith may be regarded as Outstanding for such purposes if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Company or any Affiliate of the Company.

Participants shall mean those financial institutions for whom the Securities Depository effects book entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

Paying Agent shall mean any paying agent for the Bonds appointed pursuant to the Indenture (and may include the Trustee) and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the Indenture.

Per Diem Fees shall mean, collectively, the Per Diem Late Fee and the Per Diem Supplemental Late Fee.

Per Diem Holdover Amount shall mean that per diem amount established from time to time by the Agency's Board of Directors generally imposed upon Entities receiving or that have received Financial Assistance (subject to such exceptions from such general applicability as may be established by the Agency's Board of Directors) and that have failed to terminate the Company Sublease and this Agreement within the ten (10) day period referred to in Section 10.1.

Per Diem Late Fee shall mean that per diem late fee established from time to time by the Agency's Board of Directors generally imposed upon Entities receiving or that have received Financial Assistance (subject to such exceptions from such general applicability as may be established by the Agency's Board of Directors) and that have not (x) paid to the Agency the Annual Administrative Fee on the date required under Section 8.3, (y) delivered to the Agency all or any of the Fixed Date Deliverables on the respective dates required under Section 8.14 or 8.16, and/or (z) delivered to the Agency all or any of the Requested Document Deliverables under Section 8.15 within five (5) Business Days of the Agency having made the request therefor.

Per Diem Supplemental Late Fee shall mean that supplemental per diem late fee established from time to time by the Agency's Board of Directors generally imposed upon Entities receiving or that have received Financial Assistance (subject to such exceptions from general applicability as may be established by the Agency's Board of Directors).

Permitted Encumbrances shall have the meaning assigned to such term by the Master Trust Indenture.

Permitted Liens shall have the meaning assigned to such term by the Master Trust Indenture.

Person shall mean an individual or any Entity.

Policy(ies) shall have the meaning specified in Section 8.1(a).

Port Authority shall mean The Port Authority of New York and New Jersey, a body corporate and politic established by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, and its successors and assigns as landlord under the Ground Leases to the Company with respect to the Facilities.

Predecessor Company shall have the meaning specified in Section 8.20(b)(ii).

Principal Account shall mean the special trust account of the Bond Fund so designated, established pursuant to Section 5.01 of the Indenture.

Principals shall mean, with respect to any Entity, the most senior three officers of such Entity, and any Person as shall have the power to Control such Entity, and "principal" shall mean any of such Persons.

Prior Indenture shall mean the Indenture of Trust, dated as of August 1, 2001, between the Agency and The Bank of New York Mellon, as Trustee.

Prior Trustee shall mean The Bank of New York Mellon, as the Trustee under the Prior Indenture.

Project shall mean the refunding in whole of the Series 2001A Bonds, the funding of the Debt Service Reserve Fund in the amount of the Debt Service Reserve Fund Requirement and the payment of the Costs of Issuance in connection with the issuance of the Initial Bonds.

Project Application Information shall mean the eligibility application and questionnaire submitted to the Agency by or on behalf of the Company, for approval by the Agency of the Project and the providing of Financial Assistance by the Agency therefor, together with all other letters, documentation, reports and financial information submitted in connection therewith.

Project Costs shall mean:

- (i) the refunding in whole of the Series 2001A Bonds;
- (ii) the funding of the Debt Service Reserve Fund in the amount of the Debt Service Reserve Fund Requirement;
- (iii) the payment of all costs of title insurance as provided in Section 3.7;
- (iv) the payment of the Costs of Issuance with respect to the Initial Bonds; and
- (v) the payment of all other costs and expenses relating to the refunding of the Series 2001A Bonds or the issuance of a Series of Additional Bonds.

“Project Costs” shall not include (x) fees or commissions of real estate brokers, (y) moving expenses, or (z) operational costs.

Project Documents shall mean, collectively, the Basic Lease, the Ground Leases, the Facility Leases, the Continuing Disclosure Agreement, the Project Indemnification Agreement, the Security Documents and the Master Trust Documents.

Project Fee shall mean \$659,375, representing the Agency financing fee.

Project Fund shall mean the special trust fund so designated, established pursuant to Section 5.01 of the Indenture.

Project Indemnification Agreement shall mean the Second Amended and Restated Project Indemnification Agreement, dated as of even date herewith, from the Group Representative on behalf of the Obligated Group, and CAC Air Holding, LLC, a Delaware limited liability company, to the Agency and the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Qualified Financial Institution shall have the meaning assigned to that term in the Master Trust Indenture.

Rating Agencies shall mean any of Moody’s, S&P or Fitch, which is then providing a rating on the Bonds.

Rating Confirmation Notice shall mean a notice from Moody’s, S&P or Fitch, as appropriate, confirming that the rating on the Bonds will not be lowered or withdrawn as a result of the action proposed to be taken.

Rebate Fund shall mean the special trust fund so designated, established pursuant to Section 5.2 of the Master Trust Indenture, in accordance with the requirements of Section 5.8 of the Master Trust Indenture.

Recapture Event shall have the meaning set forth in Section 5.4(a).

Recapture Period shall have the meaning set forth in Section 5.4(a).

Redemption Account shall mean the special trust account of the Bond Fund so designated, established pursuant to Section 5.01 of the Indenture.

Redemption Date shall mean the date fixed for redemption of Bonds subject to redemption in any notice of redemption given in accordance with the terms of the Indenture.

Redemption Price shall mean, with respect to any Bond or a portion thereof, the principal amount thereof to be redeemed in whole or in part, plus the applicable premium, if any, payable upon redemption thereof pursuant to such Bond or the Indenture.

Refunding Escrow Trust Agreement shall mean the Refunding Escrow Trust Agreement, dated as of even date herewith, among the Agency, the Company and the Prior Trustee, and shall include any amendments thereto.

Related Financing Document shall have the meaning assigned such term by the Master Trust Indenture.

Related Security Documents shall mean all the Security Documents other than the Indenture.

Requested Document Deliverables shall have the meaning set forth in Section 9.9(a).

Required Disclosure Statement shall mean that certain Required Disclosure Statement in the form of Exhibit C — “Form of Required Disclosure Statement”.

S&P shall mean Standard & Poor’s Ratings Services, a division of The McGraw Hill Companies, Inc., a corporation organized and existing under the laws of the State, its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency selected by the Group Representative, by notice to the other Notice Parties.

Sales Taxes shall mean City and 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).

Securities Act shall mean the Securities Act of 1933, as amended, together with any rules and regulations promulgated thereunder.

Securities Depository shall mean any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a book-entry system to record ownership of book-entry interests in the Bonds, and to effect transfers of book-entry interests in the Bonds in book-entry form, and includes and means initially DTC.

Securities Exchange Act shall mean the Securities Exchange Act of 1934, as amended, together with any rules and regulations promulgated thereunder.

Security Documents shall mean, collectively, this Agreement, the Special Covenants Agreement, the Company Sublease, the Indenture, the Consent, the Initial Bonds Master Note and the Tax Regulatory Agreement.

Series shall mean all of the Bonds designated as being of the same series authenticated and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter authenticated and delivered in lieu thereof or in substitution therefor pursuant to the Indenture.

Series 2001A Bonds shall mean the Agency's Special Airport Facility Revenue Bonds (2001 Airis JFK I, LLC Project at JFK International Airport), Series 2001A originally issued in the aggregate principal amount of \$152,675,000.

Sign shall have the meaning specified in Section 8.5.

Sinking Fund Installment shall mean an amount so designated and which is established for mandatory redemption on a date certain of the Bonds of any Series of Bonds pursuant to the Indenture. The portion of any such Sinking Fund Installment of a Series of Bonds remaining after the deduction of any amounts credited pursuant to the Indenture toward the same (or the original amount of any such Sinking Fund Installment if no such amounts shall have been credited toward the same) shall constitute the unsatisfied balance of such Sinking Fund Installment for the purpose of calculation of Sinking Fund Installments of such Series of Bonds due on a future date.

Sinking Fund Installment Account shall mean the special trust account of the Bond Fund so designated, which is established pursuant to Section 5.01 of the Indenture.

Special Covenants Agreement shall mean the Special Covenants Agreement, dated as of even date herewith, from the Group Representative on behalf of the Obligated Group to the Agency and the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with the Indenture.

State shall mean the State of New York.

Successor Company shall have the meaning specified in Section 8.20(b)(ii).

Supplemental Indenture shall mean any indenture supplemental to or amendatory of the Indenture, executed and delivered by the Agency and the Trustee in accordance with Article XI of the Indenture.

Tax Incidence Date shall mean the date as of which interest on any Bonds becomes or became includable in the gross income of the recipient thereof (other than any Members of the Obligated Group or another substantial user or related person) for federal income tax purposes for any cause, as determined by a Determination of Taxability.

Tax Regulatory Agreement shall mean the Tax Regulatory Agreement, dated the Closing Date, from the Agency and the Company to the Trustee and the Master Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with the Indenture.

Tenant Certificate and Agreement shall mean those certain Tenant Certificate and Agreements, between the Master Trustee and the respective Facility Tenant, in substantially the form set forth in Exhibit E to this Agreement and made a part hereof, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with the Master Trust Indenture.

Termination Date shall mean such date on which this Agreement may terminate pursuant to its terms and conditions prior to the Expiration Date.

Tract 8 Facility shall mean, collectively, the Tract 8 Facility Site, the Tract 8 Facility Improvements and the Tract 8 Facility Project Equipment.

Tract 8 Facility Improvements shall mean those certain buildings, structures, foundations, improvements and related facilities existing as of the Closing Date or at any time thereafter made, erected or situated on the Tract 8 Facility Site, and all replacements, extensions, substitutions, restorations, repairs and additions thereto.

Tract 8 Facility Project Equipment shall mean all fixtures acquired for installation or use at the Tract 8 Facility and described in the Description of Tract 8 Facility Project Equipment in the appendices attached hereto and made a part hereof, together with all repairs, replacements, substitutions and renewals thereof or therefor, and all parts, additions and accessories incorporated therein or affixed thereto. Tract 8 Facility Project Equipment shall, in accordance with the provisions of Section 3.5, include all property substituted for or replacing items of Tract 8 Facility Project Equipment, and exclude all items of Tract 8 Facility Project Equipment so substituted for or replaced. Tract 8 Facility Project Equipment shall not include (x) Company's Property within the meaning of Section 3.4(d), (y) property released from the Tract 8 Facility pursuant to Section 3.5, or (z) the personal property of any Facility Tenant.

Tract 8 Facility Site shall mean those certain premises described in the Description of Tract 8 Facility Site in the appendices attached hereto and made a part hereof, and all rights or interests therein or appertaining thereto.

Tract 8 Ground Lease shall mean the Agreement of Lease (Lease No. AYD-037) dated as of November 15, 2000, as amended by Supplemental Agreement dated as of October 15, 2002 ("Supplement No. 1") and by Supplemental Agreement dated as of April 29, 2005 ("Supplement No. 2"), between the Port Authority and the Company, as the same may be further amended and supplemented after the Closing Date.

Tract 9A Facility shall mean, collectively, the Tract 9A Facility Site, the Tract 9A Facility Improvements and the Tract 9A Facility Project Equipment.

Tract 9A Facility Improvements shall mean those certain buildings, structures, foundations, improvements and related facilities existing as of the Closing Date or at any time thereafter made, erected or situated on the Tract 9A Facility Site, and all replacements, extensions, substitutions, restorations, repairs and additions thereto.

Tract 9A Facility Project Equipment shall mean all fixtures acquired for installation or use at the Tract 9A Facility and described in the Description of Tract 9A Facility Project Equipment in the appendices attached hereto and made a part hereof, together with all repairs, replacements, substitutions and renewals thereof or therefor, and all parts, additions and accessories incorporated therein or affixed thereto. Tract 9A Facility Project Equipment shall, in accordance with the provisions of Section 3.5, include all property substituted for or replacing items of Tract 9A Facility Project Equipment, and exclude all items of Tract 9A Facility Project

Equipment so substituted for or replaced. Tract 9A Facility Project Equipment shall not include (x) Company's Property within the meaning of Section 3.4(d), (y) property released from the Tract 9A Facility pursuant to Section 3.5, or (z) the personal property of any Facility Tenant.

Tract 9A Facility Site shall mean those certain premises described in the Description of Tract 9A Facility Site in the appendices attached hereto and made a part hereof, and all rights or interests therein or appertaining thereto.

Tract 9A Ground Lease shall mean the Agreement of Lease (Lease No. AYD 038), dated as of November 15, 2000, as amended by Supplemental Agreement dated as of October 15, 2002 ("Supplement No. 1") and by Supplemental Agreement dated as of April 29, 2005 ("Supplement No. 2"), between the Port Authority and the Company, as the same may be further amended and supplemented after the Closing Date.

Transfer shall have the meaning specified in Section 8.20(a)(iv).

Trustee shall mean The Bank of New York Mellon, New York, New York in its capacity as trustee under the Indenture, and its successors in such capacity and their assigns hereafter appointed in the manner provided in the Indenture.

2001 Project shall mean the construction and equipping of two industrial and warehousing facilities consisting of (y) the construction of an approximately 262,515 square foot air cargo and aircraft related service facility at the Tract 8 Facility Site at the Airport, the construction of site improvements, and the acquisition and installation of equipment to constitute fixtures in connection therewith, and (z) the construction of an approximately 172,100 square foot air cargo and aircraft related service facility at the Tract 9A Facility Site at the Airport, the construction of site improvements, and the acquisition and installation of equipment to constitute fixtures in connection therewith, all for use in providing air cargo and aviation support facilities to tenants conducting aviation related activities.

Underwriters shall mean, with respect to the Initial Bonds, Goldman, Sachs & Co., Cabrera Capital Markets, LLC and Loop Capital Markets LLC.

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 Closing 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.

(e) Unless the content indicates otherwise, references to designated "Exhibits", "Articles", "Sections", "Subsections", "clauses" and other subdivisions are to the designated Exhibits, Articles, Sections, Subsections, clauses and other subdivisions of or to this Agreement.

(f) The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

(g) The word "will" shall be construed to have the same meaning and effect as the word "shall".

(h) Any definition of or reference to any agreement, instrument or other document herein shall be construed to refer to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth therein).

(i) Any reference to any Person, or to any Person in a specified capacity, shall be construed to include such Person's successors and assigns or such Person's successors in such capacity, as the case may be.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties by Agency. The Agency makes the following representations and warranties:

(i) The Agency 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 representations made by the Company, the Agency 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.

(iii) By proper action of its board of directors, the Agency has duly authorized the execution and delivery of this Agreement and each of the other Project Documents to which the Agency is a party.

(iv) In order to finance a portion of the cost of the Project, the Agency proposes to issue the Initial Bonds in the Authorized Principal Amount. The Initial Bonds will mature, bear interest, be redeemable and have the other terms and provisions set forth in the Indenture.

Section 2.2. Representations and Warranties by the Company. The Company makes the following representations and warranties:

(a) The Company is a single asset, single purpose limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, is duly qualified to do business and in good standing under the laws of the State, is not in violation of any provision of its articles of organization or operating agreement, has the requisite 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. The Company is owned 100% by CAC Air Holding, LLC, a Delaware limited liability company ("CAC"); CAC is owned 100% by Transportation Infrastructure Properties, LLC, a Delaware limited liability company ("Transportation Infrastructure"); Transportation Infrastructure is 100% owned by CalEast CAC, LLC, a Delaware limited liability company ("CalEast CAC"); CalEast CAC is 100% owned by CalEast Air Cargo, LLC, a Delaware limited liability company ("CalEast Air Cargo"); CalEast Air Cargo is owned 1% by AeroTerm IV, LLC, a Delaware limited liability company ("AeroTerm") and 99% by CalEast Air Cargo Investors, LLC, a Delaware limited liability company ("CalEast Air Cargo Investors"); CalEast Air Cargo Investors is owned 100% by CalEast Industrial Investors, LLC, a Delaware limited liability company ("CalEast Industrial Investors"); and CalEast Industrial Investors is 2% owned by GIP Manager (CalEast) LLC, a Delaware limited liability company, and 98% by CalEast Global Logistics, LLC (CalPERS), a Delaware limited liability company.

(b) This Agreement and the other Project Documents to which the Company is a party (x) have been duly authorized by all necessary action on the part of the Company, (y) have been duly executed and delivered by the Company, and (z) constitute the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms.

(c) The execution, delivery and performance of this Agreement and each other Project Document to which the Company is or shall be a party and the consummation of the transactions herein and therein contemplated will not (x) violate any provision of law, any order of any court or agency of government, or the articles of organization or operating agreement of the Company, or any indenture, agreement or other instrument to which the Company is a party (including, without limitation, either of the Ground Leases), or by which it or any of its property is bound or to which it or any of its property is subject, (y) 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 (z) result in the imposition of any lien, charge or encumbrance of any nature whatsoever other than Permitted Encumbrances.

(d) There is no action or proceeding pending or, to the best of the Company's knowledge, after diligent inquiry, threatened, by or against the Company by or before any court or administrative agency that would adversely affect the ability of the Company to perform its obligations under this Agreement or any other Project Document to which it is or shall be a party.

(e) The Financial Assistance provided by the Agency to the Company as contemplated by this Agreement is necessary to induce the Company to proceed with the Project.

(f) The transactions contemplated by this Agreement shall not result in the removal of any facility or plant of the Company or any other occupant or user of either of the Facilities (including any Facility Tenant) from one area of the State outside of the City to within the City or in the abandonment of one or more facilities or plants of the Company or any other occupant or user of either of the Facilities (including any Facility Tenant) located within the State, but outside of the City.

(g) 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 of goods or services to customers who personally visit such facilities constitute more than one-third of the total project costs. For purposes of this Section 2.2(g), "retail sales" shall mean (i) sales by a registered vendor under article twenty-eight of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section eleven hundred one of the New York Tax Law, or (ii) sales of a service to such customers.

(h) Undertaking the Project is anticipated to 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.

(i) No funds of the Agency shall be used by the Company 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.

(j) The Facilities will be the Approved Facilities and a qualified "project" within the meaning of the Act.

(k) Except as permitted by Section 8.9, no Person other than the Company or any Facility Tenant is or will be in use, occupancy or possession of any portion of the Facilities.

(l) The Company has obtained all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by it as of the Closing Date in connection with the execution and delivery of this Agreement and each other Project Document to which it shall be a party or in connection with the performance of its obligations hereunder and under each of the Project Documents.

(m) The Company and, to the best knowledge of the Company, each Existing Facility Tenant, is operating the Facilities in compliance with all applicable Legal Requirements.

(n) The outstanding principal amount of the Series 2001A Bonds is \$140,450,000, and the amount held as of the Closing Date in the Debt Service Reserve Fund under the Prior Indenture is \$16,601,609.

(o) The Company has not used Hazardous Substances on, from, or affecting the Facilities in any manner that violates any applicable Legal Requirements governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Substances.

(p) Pursuant to the Ground Leases and the Company Sublease, the Agency has been vested with a good and valid leasehold interest in the Facilities, subject to no mortgage, lien, charge, pledge, mortgage, security interest, conditional sale agreement or encumbrance of any kind whatsoever, other than Permitted Encumbrances and Permitted Liens. The execution of this Agreement shall not be deemed to create a merger of the leasehold estate hereby vested in the Company with the leasehold interest under the Ground Leases in the Facilities currently held by the Company.

(q) There is no action or proceeding pending or to the best knowledge of the Company threatened by or against the Company by or before any court or administrative agency that would materially adversely affect the legality, validity or enforceability of, or the ability of the Company to perform its obligations under, any of the Project Documents to which the Company is a party, and all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by the Company as of the Closing Date in connection with the execution and delivery of each of the Project Documents to which the Company is a party or in

connection with the performance of the obligations of the Company hereunder or thereunder have been obtained.

(r) The Company has operated the Facilities, and intends to continue to operate the Facilities, (i) in accordance with this Agreement and the Ground Leases, (ii) as a qualified "project", in accordance with and as defined under the Act, and as an "industrial facility" and "warehousing facility", as such terms are used in the Act, and (iii) as an exempt "airport facility" within the meaning of Section 142(a)(1) of the Code.

(s) The Company does not engage nor intend to engage in any business or enterprise other than (y) the performance of its obligations under the Ground Leases and all other Project Documents to which it is a party, and all other agreements relating to the Facilities and their financing, leasing, management, maintenance, repair, restoration, improvement and operation, and (z) activities in furtherance thereof or ancillary or reasonably related thereto.

(t) The Company (i) is not in default in the payment of the principal of or interest on any of its indebtedness and is not in default under any instrument under which any of its indebtedness has been incurred, in either case, which default would have a material adverse effect on the Initial Bonds or the transactions contemplated by, or the Company's ability to perform its obligations under, the Ground Leases, this Agreement and the other Project Documents to which it is a party, and (ii) no event has occurred and is continuing under the provisions of any such instrument that, with the lapse of time or the giving of notice, or both, would constitute a default of the nature described in the preceding clause (i).

(u) The Company is not a party to any contract or agreement or subject to any organizational restriction, the performance of or compliance with which may have a material adverse effect on the validity or enforceability of the Initial Bonds, the Indenture, this Agreement or any of the other Project Documents to which the Company is a party.

(v) The Company acknowledges that the Agency has no responsibility for maintenance, repair and insurance of the Facilities.

(w) The operation of the Facilities does not conflict with any zoning or environmental law, ordinance or regulation or any similar law, ordinance or regulation, in either case, applicable thereto.

(x) There is no existing violation against either or both of the Facilities filed by any court or administrative agency that prohibits the Company from operating or leasing either or both of the Facilities for their intended purposes, except for violations which the Company has agreed or made arrangements to have removed and satisfied of record.

(y) The Company is in compliance with all insurance requirements imposed upon the Company under each of this Agreement, the Master Trust Indenture, the respective Ground Leases and the respective Facility Leases.

(z) The aggregate rentable square feet comprising the Tract 8 Facility Improvement is 264,167.

(aa) The aggregate rentable square feet comprising the Tract 9A Facility Improvement is 172,100.

(bb) Each of the Ground Leases continues in full force and effect as the legal, valid and binding obligations of the Company without default by the Company or, to the knowledge of the Company, by the Port Authority, thereunder. The Company has neither received nor delivered any notice of default or termination thereunder.

(cc) None of the Company, the Principals of the Company, or any Person that directly or indirectly Controls, is Controlled by, or is under common Control with the Company:

(i) 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;

(ii) has been convicted of a misdemeanor related to truthfulness and/or business conduct in the past five (5) years;

(iii) has been convicted of a felony in the past ten (10) years;

(iv) has received formal written notice from a federal, state or local governmental agency or body that such Person is currently under investigation for a felony criminal offense; or

(v) has received written notice of default in the payment to the City of any taxes, sewer rents or water charges, which have not been paid, unless such default is currently being contested with due diligence in proceedings in court or other appropriate forum.

(dd) The Project Application Information was true, correct and complete as of the date submitted to the Agency, and no event has occurred or failed to occur since such date of submission which would cause any of the Project Application Information to include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make such statements not misleading.

(ee) The Principals of the Company, and their respective titles to the Company, as set forth in Exhibit B — “Principals of Company”, are true, correct and complete.

(ff) The representations, warranties, covenants and statements of expectation of the Company set forth in the Tax Regulatory Agreement are by this reference incorporated in this Agreement as though fully set forth herein.

(gg) The Facilities have been completed and were placed in service prior to the Closing Date.

(hh) The Company is vested with good and marketable leasehold interest in the Facilities, subject to no mortgage, lien, charge, pledge, mortgage, security interest, conditional

sale agreement or encumbrance of any kind whatsoever, other than Permitted Encumbrances and Permitted Liens.

(ii) The Company is, as of the Closing Date, and after giving effect to all instruments evidencing or securing the Obligations will be, in a solvent condition.

(jj) The execution and delivery of the Mortgage does not constitute a "fraudulent conveyance" within the meaning of Title 11 of the United States Code as so constituted or under any other applicable law.

(kk) No bankruptcy or insolvency proceedings are pending or contemplated by or, to the best knowledge of the Company, against, the Company.

(ll) The Mortgage does not give any Person other than the Master Trustee the right to payment of the Obligations.

(mm) The Company is duly authorized to mortgage and grant a security interest in the Mortgaged Property (as defined in the Mortgage), and the Mortgage is a first lien upon the Mortgaged Property, subject only to Permitted Encumbrances and Permitted Liens.

(nn) With respect to the Existing Facility Leases, the Company represents that (i) the Company is the lessor under the terms and provisions of any Existing Facility Leases, either as the named lessor or as successor in interest to the named lessor; (ii) the Existing Facility Leases are in full force and effect and there are no defaults now existing under any of the Existing Facility Leases on the part of the Company, or to the best knowledge of the Company, by any of the Facility Tenants (except as indicated on "Existing Facility Tenant Defaults" in Exhibit F attached hereto, and the Company has neither received nor delivered any notice of default or termination thereunder; (iii) no lease payments under the Existing Facility Leases have been collected in advance of the date due other than for reasonable security deposits; (iv) the Company is entitled to receive all the lease payments under the Facility Leases and assigned by the Mortgage; (v) the same have not been heretofore sold, assigned, transferred or set over by any instrument now in force and will not at any time during the term of this Agreement, be sold, assigned, transferred, or set over by the Company or any other Person or Persons taking under or through the Company, except subject to the Mortgage, nor has the Company performed any act or executed any other instrument which might prevent the Master Trustee from exercising or enforcing any of the terms and conditions of the Mortgage or which would limit the Master Trustee in such exercise or enforcement; (vi) subject to the rights and consent of the Port Authority, the Company has the sole right to sell, assign, transfer and set over the same and to grant and confer upon Master Trustee the rights, interests, powers and/or authorities granted and conferred by the Mortgage; (vii) no other Facility Leases exist as of the Closing Date with respect to either of the Facilities other than the Existing Facility Leases; and (viii) the information set forth in Exhibit D to this Agreement with respect to the Existing Facility Leases is true, correct and complete.

ARTICLE III

LEASEHOLD INTEREST CONVEYED TO THE AGENCY; THE PROJECT; MAINTENANCE; REMOVAL OF PROPERTY AND TITLE INSURANCE

Section 3.1. The Company Sublease. Pursuant to the Company Sublease, the Company has sub-leased the Facilities to the Agency, free and clear of all liens, claims, charges, encumbrances, security interests and servitudes other than Permitted Encumbrances and Permitted Liens.

Section 3.2. [Reserved].

Section 3.3. Maintenance. (a) During the term of this Agreement, the Company will:

(i) keep the Facilities in good and safe operating order and condition, ordinary wear and tear excepted,

(ii) occupy, use and operate the Facilities, or cause the Facilities to be occupied, used and operated, as the Approved Facilities, and

(iii) 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 (w) the Facilities shall be operated in accordance with the requirements of this Agreement, the Tax Regulatory Agreement, the Master Indenture Documents, the Ground Leases and the Facility Leases, (x) the interest on the Bonds shall not cease to be excludable from gross income for federal income tax purposes, (y) the operations of the Company at the Facilities shall not be materially impaired or diminished in any way, and (z) the security for the Bonds shall not be materially impaired.

(b) All replacements, renewals and repairs shall be similar in quality, class and value to the original work and be made and installed in compliance with all applicable Legal Requirements.

(c) The Agency shall be under no obligation to replace, service, test, adjust, erect, maintain or effect replacements, renewals or repairs of the Facilities, to effect the replacement of any inadequate, obsolete, worn out or unsuitable parts of the Facilities, or to furnish any utilities or services for the Facilities, and the Company hereby agrees to assume full responsibility therefor.

Section 3.4. Alterations and Improvements.

(a) The Company shall have the privilege of making such alterations of or additions to the Facility Realty ("**Additional Improvements**") 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) the Additional Improvements are effected with due diligence, in a good and workmanlike manner and in compliance with the Master Trust Documents, the Ground Leases, the Facility Leases and all applicable Legal Requirements,

(ii) the Additional Improvements are promptly and fully paid for by the Company in accordance with the terms of the applicable contract(s) therefor, and

(iii) the Additional Improvements do not change the nature of the Facilities so that they would not constitute the Approved Facilities and a qualified "project" within the meaning of the Act, nor cause either Facility to cease to be an exempt "airport facility" within the meaning of Section 142(a)(1) of the Code.

(b) All Additional Improvements shall constitute a part of the respective Facility, subject to the Company Sublease, this Agreement and the remaining Project Documents.

(c) If at any time the Company shall make any Additional Improvements, the Company shall notify an Authorized Representative of the Agency of such Additional Improvements by delivering written notice thereof within thirty (30) days after the completion of the Additional Improvements.

(d) In addition to the Facility Equipment, the Company shall have the right to install or permit to be installed at the Facility Site, machinery, equipment and other personal property at the Company's own cost and expense (the "**Company's Property**"). Once so installed, the Company's Property shall not constitute Facility Equipment and shall not be subject to the Company Sublease or this Agreement, nor constitute part of the Facilities, or subject to the lien and security interest of the Mortgage, subject, however, to the Master Trust Documents, provided that the same is not made fixtures appurtenant to the Facility Site or the Improvements. The Company 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 Company's Property, without the consent of or notice to the Agency or the Trustee, provided, however, that the same does not create or purport to create any lien on the Facilities other than Permitted Encumbrances or Permitted Liens.

Section 3.5. Removal of Property of the Facilities.

(a) Subject to the Master Trust Documents and the Ground Leases, the Company shall have the right from time to time to remove from the Facilities any fixture constituting part of the Facility Equipment (in any such case, the "**Existing Facility Property**") and thereby removing such Existing Facility Property from the Company Sublease and this Agreement, provided, however, such Existing Facility Property is substituted or replaced by property (y) having equal or greater fair market value, operating efficiency and utility and (z) free of all mortgages, liens, charges, encumbrances, claims and security interests other than Permitted Encumbrances and Permitted Liens.

No such removal set forth above shall be effected if (u) such removal would cause the Company to be in default under any of the Project Documents, (v) such removal would cause

the interest on the Bonds to cease to be excludable from gross income for federal income tax purposes, (w) such removal would change the nature of either of the Facilities as the Approved Facilities and a qualified "project" within the meaning of the Act, or cause either of the Facilities to cease to be an exempt "airport facility" within the meaning of Section 142(a)(1) of the Code, (x) such removal would materially impair the usefulness, structural integrity or operating efficiency of the Facilities or have a Material Adverse Effect, (y) such removal would materially reduce the fair market value of the Facilities below their value immediately before such removal, or (z) there shall exist and be continuing an Event of Default hereunder.

(b) The removal from the Facilities of any Existing Facility Property pursuant to the provisions of Section 3.5(a) shall not entitle the Company to any abatement or reduction in the installment purchase payments and other amounts payable by the Company under this Agreement or under any other Project Document.

Section 3.6. Implementation of Agency's Interest in New Property.

(a) In the event of any Additional Improvements or substitution or replacement of property pursuant to Section 3.4 or 3.5, the Company shall deliver or cause to be delivered to the Agency any necessary documents in order to subject such Additional Improvements or substitute or replacement property to the Company Sublease and this Agreement and the lien and security interest of the Mortgage.

(b) The Company agrees to pay all costs and expenses (including reasonable counsel fees) incurred by the Agency in subjecting to, or, subject to the Master Trust Documents, releasing from the Company Sublease and this Agreement and the lien and security interest of the Mortgage, any property installed or placed on, or removed from, the Facilities pursuant to Section 3.4 or 3.5.

(c) Reference is made to Section 8.15(d) and (e) pursuant to which the Company has agreed to furnish a report or certificate to the Agency of any action taken by the Company pursuant to the provisions of Section 3.4 or 3.5.

Section 3.7. Title Insurance. On or prior to the Closing Date, the Company will obtain and deliver (x) to the Agency a leasehold title insurance policy (in form and substance acceptable to the Agency) in an amount not less than \$500,000 insuring the Agency's subleasehold interest under the Company Sublease in each of the Land and the Improvements against loss as a result of defects in title, and (y) to the Master Trustee a mortgagee title insurance policy in an amount not less than the Authorized Principal Amount insuring the Master Trustee's interest under the Mortgage as holder of a mortgage lien on the Company's and the Agency's leasehold interests in the Facilities, in each case subject only to Permitted Encumbrances and Permitted Liens, and (z) a current or updated survey of each of the Land and the Improvements certified to the Agency, to the Master Trustee and to the title company issuing such title insurance policies. The title insurance policies shall be subject only to Permitted Encumbrances and Permitted Liens and shall provide for, among other things, the following: (1) full coverage against mechanics' liens; (2) no exceptions other than those approved by the Agency and the Master Trustee; (3) an undertaking by the title insurer to provide the notice of title continuation or endorsement; and (4) such other matters as the Agency and/or the Master

Trustee shall request. Any proceeds of such leasehold title insurance shall be paid to the Master Trustee and applied to remedy the applicable defect in title in respect of which such proceeds shall be derived (including the reimbursement to the Company for any costs incurred by the Company in remedying such defect in title). If not so capable of being applied or if a balance remains after such application, the Company shall cause such remaining amounts to be transferred by the Master Trustee to the Trustee for deposit in the Redemption Account of the Bond Fund and used to redeem an equivalent principal amount of the Initial Bonds to the nearest integral multiple of Authorized Denominations.

ARTICLE IV

SALE OF SUBLEASEHOLD INTEREST IN FACILITIES AND INSTALLMENT PURCHASE PAYMENT PROVISIONS

Section 4.1. Lease and Sale of the Facilities. Pursuant to the Company Sublease, the Company has subleased the Facilities to the Agency. The Agency hereby assigns, conveys, sells and transfers to the Company the Agency's subleasehold interest in the Facilities (other than the Agency's Reserved Rights), all for and during the term herein provided and upon and subject to the terms and conditions herein set forth. It is the intention of the Agency and the Company under this Agreement that the sale and assignment by the Agency hereunder of its subleasehold interest in the Facilities under the Company Sublease shall not result in a merger of the leasehold estates and interests of the Company and the Agency under and in the Company Sublease so as to effect a termination or any other impairment of the Company Sublease; and until the termination of the Company Sublease in accordance with its terms or the expiration hereof, the Company Sublease shall continue in full force and effect to the same extent as if the Agency had not sold or assigned its subleasehold interest under the Company Sublease in the Facilities to the Company pursuant to this Agreement.

The Agency hereby delivers to the Company, and the Company hereby accepts, sole and exclusive possession of the Facilities.

Section 4.2. Duration of Term. The term of this Agreement shall commence on the Closing Date and, unless earlier terminated pursuant to the terms hereof, shall terminate on the earliest of: (i) 11:59 p.m. July 2, 2028 (New York City time); and (ii) the date on which the Bonds shall cease to be Outstanding under the Indenture.

Section 4.3. Installment Purchase Payment Provisions; Pledge of Agreement.

(a) (i) The Company covenants to make (or cause the Master Trustee to make in accordance with the Master Trust Indenture) installment purchase payments prior to 10:00 a.m. (New York City time) on each Installment Purchase Payment Date in amounts equal to the principal, Sinking Fund Installments, Redemption Price of, and interest on the Bonds next coming due, which installment purchase payments the Company agrees shall be paid in immediately available funds by the Company directly to the Trustee. If insufficient moneys are then on deposit in the Bond Fund (taking into account any amounts to be transferred to or credited to the Bond Fund pursuant to the Indenture) and available therefor, the Company shall, prior to 10:00 a.m. (New York City time) on such Installment Purchase Payment Date, pay (or cause the Master Trustee to pay in accordance with the Master Trust Indenture) to the Trustee for deposit in the Bond Fund the amount necessary (in immediately available funds, as necessary) for the payment of principal, Sinking Fund Installments, Redemption Price, if applicable, and interest next due on the Bonds.

(ii) Upon receipt by the Company of notice from the Trustee pursuant to Section 5.08(f) of the Indenture that the amount on deposit in the Debt Service Reserve Fund shall be less than the Debt Service Reserve Fund Requirement, the Company shall pay (or cause

the Master Trustee to pay in accordance with the Master Trust Indenture) to the Trustee for deposit in the Debt Service Reserve Fund in accordance with the requirements of the Master Trust Indenture.

(b) In the event the Company should fail to make or cause to be made any of the payments required under the foregoing provisions of this Section, the item or installment not so paid shall continue as an obligation of the Company until the amount not so paid shall have been fully paid.

(c) The Company has the option to make advance installment purchase payments for deposit in the Bond Fund to effect the retirement, defeasance or redemption of the Bonds in whole or in part, all in accordance with the terms of the Indenture; provided, however, that no partial redemption of the Bonds may be effected through advance installment purchase payments hereunder if there shall exist and be continuing an Event of Default. The Company shall exercise its option to make such advance installment purchase payments by delivering a written notice of the Group Representative to the Trustee in accordance with the Indenture, with a copy to the Agency, setting forth (i) the amount of the advance installment purchase payment, (ii) the principal amount of Bonds Outstanding and related maturities requested to be redeemed with such advance installment purchase payment (which principal amount shall be in such minimum amount or integral Authorized Denomination as shall be permitted in the Indenture), and (iii) the date on which such principal amount of Bonds are to be redeemed (which date shall be not earlier than thirty-five (35) days after the date of such notice). In the event the Company shall exercise its option to make advance installment purchase payments to effect the redemption in whole of the Bonds, and such redemption is expressly permitted under the Indenture as a result of a Loss Event, or changes in law, or executive or judicial action, the Company shall further deliver to the Agency and the Trustee a certificate of an Authorized Representative of the Company stating that, as a result of the occurrence of the event giving rise to such redemption, the Company has discontinued, or at the earliest practicable date will discontinue, its operation of the affected Facility or Facilities for its or their intended purposes. Such advance installment purchase payment shall be paid to the Trustee in legal tender, for deposit in the Redemption Account of the Bond Fund on or before the redemption date and shall be an amount which, when added to the amounts on deposit in the Bond Fund and available therefor, will be sufficient to pay the Redemption Price of the Bonds to be redeemed, together with interest to accrue to the date of redemption and all expenses of the Agency, the Trustee, the Bond Registrar and the Paying Agents in connection with such redemption. In the event the Bonds are to be redeemed in whole or otherwise retired, the Company shall further pay on or before such redemption date, in legal tender, to the Agency, the Trustee, the Bond Registrar and the Paying Agency all fees and expenses owed such party or any other party entitled thereto under this Agreement or the Indenture together with (i) all other amounts due and payable under this Agreement and the other Security Documents, and (ii) any amounts required to be rebated to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement.

(d) At its option, to be exercised on or before the forty-fifth (45th) day next preceding the date any Bonds of a Series are to be redeemed from mandatory Sinking Fund Installments, the Company may deliver to the Trustee Bonds of such Series which are subject to mandatory Sinking Fund Installment redemption in an aggregate principal amount not in excess of the principal amount of Bonds of such Series to be so redeemed on such date. Each such

Bond so delivered shall be credited by the Trustee at one hundred percent (100%) of the principal amount thereof against the obligation of the Agency on such Sinking Fund Installment payment date and any excess over such Sinking Fund Installment shall be credited on future Sinking Fund Installments in direct chronological order, and the principal amount of Bonds to be redeemed by operation of the mandatory Sinking Fund Installments shall be accordingly reduced.

(e) In the event Defaulted Interest (as defined in Section 2.02(f) of the Indenture) shall become due on any Initial Bond, the Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on such Initial Bond and the date of the proposed payment (which date shall be such as will enable the Trustee to comply with Section 2.02(f) of the Indenture), and shall deposit with the Trustee at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment.

(f) No further installment purchase payments need be made to the Agency on account of the Bonds during the term of this Agreement when and so long as the amount of cash and/or Defeasance Collateral on deposit in the Bond Fund is sufficient to satisfy and discharge the obligations of the Agency under the Indenture and pay the Bonds as provided in Article X of the Indenture.

(g) Any amounts remaining in the Earnings Fund, the Rebate Fund, the Bond Fund, the Debt Service Reserve Fund or the Project Fund upon the expiration or sooner termination of the term of this Agreement as provided in this Agreement, after payment in full of (i) the Bonds (in accordance with Article X of the Indenture), (ii) the fees, charges and expenses of the Agency, the Trustee, the Bond Registrar and the Paying Agents in accordance with the Indenture, (iii) all installment purchase payments and all other amounts payable hereunder, and after all amounts required to be rebated to the Federal government pursuant to the Tax Regulatory Agreement or the Indenture, and (iv) all amounts required to be paid under any Security Document, shall have been so paid, shall be paid to the Master Trustee for deposit to the Revenue Fund established under the Master Trust Indenture for application as revenues held in such Revenue Fund, and if the Master Trust Indenture is no longer in full force and effect, to or upon the direction of the Group Representative.

(h) Notwithstanding anything in the foregoing to the contrary, if the amount on deposit and available in the Bond Fund is not sufficient to pay the principal of, Sinking Fund Installments for, redemption premium, if any, and interest on the Bonds when due (whether at maturity or by redemption or acceleration or otherwise as provided in the Indenture), the Company shall forthwith pay the amount of such deficiency in immediately available funds to the Trustee for deposit in the Bond Fund.

Section 4.4. Installment Purchase Payments and Other Payments Payable Absolutely Net. The obligation of the Company to pay the installment purchase payments and other payments under this Agreement shall be absolutely net to the Agency and to the Trustee without any abatement, recoupment, diminution, reduction, deduction, counterclaim, set-off or offset whatsoever, so that this Agreement shall yield, net, to the Agency and to the Trustee, the

installment purchase payments and other payments provided for herein, and all costs, expenses and charges of any kind and nature relating to the Facilities, arising or becoming due and payable during or after the term of this Agreement, shall be paid by the Company and the Indemnified Parties shall be indemnified by the Company for, and the Company shall hold the Indemnified Parties harmless from, any such costs, expenses and charges.

Section 4.5. Nature of Company's Obligation Unconditional. The Company's obligation under this Agreement to pay the installment purchase payments and all other payments provided for in this Agreement shall be absolute, unconditional and a general obligation of the Company, 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, the Trustee, the Master Trustee, the Holder of any Bond or any other Person. The Company will not suspend or discontinue any such payment or terminate this Agreement (other than such termination as is provided for hereunder), or suspend the performance or observance of any covenant or agreement required on the part of the Company hereunder, for any cause whatsoever, and the Company waives all rights now or hereafter conferred by statute or otherwise to quit, terminate, cancel or surrender this Agreement or any obligation of the Company under this Agreement except as provided in this Agreement or to any abatement, suspension, deferment, diminution or reduction in the installment purchase payments or other payments hereunder.

Section 4.6. Advances by the Agency, the Master Trustee or the Trustee. In the event the Company fails to make any payment (or the Master Trustee fails to make such payment in accordance with the Master Trust Indenture) or to perform or to observe any obligation required of it under this Agreement, the Agency, the Master Trustee or the Trustee, after first notifying the Company in writing of any such failure on its part (except that no prior notification of the Company shall be required in the event of an emergency condition that, in the reasonable judgment of the Agency, the Master Trustee or the Trustee, necessitates immediate action), may (but shall not be obligated to), and without waiver of any of the rights of the Agency, the Master Trustee or the Trustee under this Agreement or any other Project Document to which the Agency, the Master Trustee or the Trustee is a party, make such payment or otherwise cure any failure by the Company to perform and to observe its other obligations hereunder. All amounts so advanced therefor by the Agency, the Master Trustee or the Trustee shall become an additional obligation of the Company to the Agency, the Master Trustee or the Trustee, as the case may be, which amounts, together with interest thereon at the rate of twelve percent (12%) per annum, compounded daily, from the date advanced, the Company will pay upon demand therefor by the Agency, the Master Trustee or the Trustee, as applicable. Any remedy herein vested in the Agency, the Master Trustee or the Trustee for the collection of the installment purchase payments or other payments or other amounts due hereunder shall also be available to the Agency, the Master Trustee or the Trustee, as applicable, for the collection of all such amounts so advanced.

Section 4.7. 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 FACILITIES, THEIR FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR

CAPACITY OF THE MATERIALS IN THE FACILITIES, OR THE SUITABILITY OF THE FACILITIES FOR THE PURPOSES OR NEEDS OF THE COMPANY OR THE EXTENT TO WHICH PROCEEDS DERIVED FROM THE SALE OF THE INITIAL BONDS WILL BE SUFFICIENT TO REDEEM THE SERIES 2001A BONDS IN WHOLE. THE COMPANY ACKNOWLEDGES THAT THE AGENCY IS NOT THE MANUFACTURER OF THE FACILITY EQUIPMENT NOR THE MANUFACTURER'S AGENT NOR A DEALER THEREIN. THE COMPANY IS SATISFIED THAT THE FACILITIES ARE SUITABLE AND FIT FOR PURPOSES OF THE COMPANY AND ITS FACILITY TENANTS. THE AGENCY SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE COMPANY OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE PROPERTY OF THE FACILITIES 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 4.8. Usury. Notwithstanding any provision of the Security Documents or Master Trust Documents to the contrary, it is hereby agreed by and between the Agency and the Company that in no event (including without limitation the acceleration of maturity of the Bonds or the redemption of the Bonds pursuant to the Security Documents) shall the amount of installment purchase payments contracted for, charged, received, reserved or taken in connection with the installment purchase arrangements made hereunder, if and to the extent such payments (or a portion thereof) are treated as interest for purposes of State law ("Interest"), exceed the amount of interest which could have been contracted for, charged, reserved, received or taken at the Highest Lawful Rate. For purposes of this Section, to the maximum extent permitted by law, the rate of interest attributable to installment purchase payments shall be determined by: (i) spreading payments over the term of this Agreement; (ii) if appropriate, characterizing payments as a premium for the privilege of making an optional prepayment of an obligation; and (iii) giving effect to the provisions of any other Security Document which requires the cancellation or refunding of Interest. Excess interest, if any after the application of the foregoing provisions, provided for in the Security Documents shall be cancelled automatically as of the date of such acceleration, redemption or purchase or, if theretofore paid, shall be credited to future installment purchase payments or if all installment purchase payments have been, or would thereby be, paid in full, refunded to the Company (provided, however, that, so long as the Master Trust Indenture remains in full force and effect, any refund shall be paid to the Master Trustee for deposit to the Revenue Fund for application as revenues in accordance with the Master Trust Indenture). However, in lieu of such cancellation or refund, the Trustee shall (if requested by the Holders of all of the Outstanding Bonds affected), to the extent permitted by applicable law, delay the date on which any payment is due hereunder or under any of the Security Documents until the earliest Business Day that will result in the payment of interest at a rate not in excess of the Highest Lawful Rate.

Section 4.9. Additional Payments. In addition to the payments set forth in Sections 4.3, 8.3 and elsewhere in this Agreement, the Company shall also pay to the Agency or to the Trustee, as the case may be, "Additional Payments," as follows:

(i) all taxes and assessments of any type or character charged to the Agency or to the Trustee affecting the amount available to the Agency or the Trustee from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and assessments assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Trustee and taxes based upon or measured by the net income of the Trustee; provided, however, that the Company shall have the right to protest any such taxes or assessments and to require the Trustee, at the Company's expense, to protest and contest any such taxes or assessments levied upon it and that the Company shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Agency or the Trustee; and

(ii) the reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the Agency, the Master Trustee or the Trustee to prepare audits, financial statements, reports, opinions or provide such other services required under this Agreement, the other Security Documents or the Master Trust Documents, including, but not limited to, any audit or inquiry by the Internal Revenue Service or any other governmental body.

ARTICLE V

REAL ESTATE AND SALES TAXES; AGENCY FINANCIAL ASSISTANCE (MORTGAGE RECORDING TAX DEFERRAL); RECAPTURE OF PUBLIC BENEFITS

Section 5.1. Payments in Lieu of Real Estate Taxes. 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. In the event the Agency's interest in the Facilities shall exempt the Land or Improvements or any portion thereof from the imposition of real estate taxes, then, the Company shall not claim an exemption from such real estate taxes by virtue of the Agency's interest in the Land or Improvements.

Section 5.2. Sales Tax Exemption. The Company shall not claim or assert any exemption from Sales Taxes resulting from or occasioned by the Agency's involvement with the Facilities, it being the intent of the parties hereto that no purchases nor leases of property shall be subject to an exemption from Sales Taxes by reason of the Agency's interest in the Facilities.

Section 5.3. Mortgage Recording Tax Deferral.

(a) For purposes of this Section 5.3, the following terms shall have the meanings specified below:

Exempt Mortgage shall mean a mortgage, including the Mortgage, the recording of which is exempt from Mortgage Recording Taxes by reason of the Agency being a mortgagor thereunder.

Gap Mortgage shall mean, upon any refinancing of the outstanding principal balance of the indebtedness secured by an existing Exempt Mortgage, the separate mortgage that will initially secure the New Money.

New Money shall mean, upon any refinancing of the outstanding principal balance of the indebtedness secured by an existing Exempt Mortgage, any additional loan proceeds that may be advanced as part of such mortgage refinancing.

Mortgage Recording Taxes shall mean those taxes imposed by the City and the State upon the recording of mortgages against real property in the City.

Non-Exempt Principal shall mean that portion of the indebtedness secured by an existing Exempt Mortgage that may be outstanding on the Expiration Date (as may be reasonably calculated by the Agency at a given point in time) or on any earlier termination of this Agreement, as the context requires.

PILOMRT shall mean payment(s) in lieu of mortgage recording taxes as such payments are calculated using the mortgage recording tax rate in effect at time of payment.

NPV shall mean a net-present-value calculation of an amount due at a future date using such discount rate as may be required by the Agency from time to time.

NPV-PILOMRT shall mean the net-present-value calculation of a PILOMRT due at the Expiration Date using such discount rate as may be required by the Agency from time to time.

(b) The Company acknowledges that the Agency has deferred the payment of Mortgage Recording Taxes on each Exempt Mortgage for a term, such term to commence on the date of recording of such Exempt Mortgage and to end on the earliest to occur of (i) the Expiration Date or sooner termination of this Agreement, (ii) the maturity or sooner termination of such Exempt Mortgage, or (iii) the demand by the Agency for payment of the NPV-PILOMRT pursuant to Section 9.2(b).

(c) The Company acknowledges and agrees that the Agency is not obligated to defer the payment of Mortgage Recording Taxes for the recording of any mortgage other than an Exempt Mortgage; nor is the Agency obligated to defer the payment of Mortgage Recording Taxes on any extension, modification or other amendment to, or any assignment, consolidation or restatement of, an Exempt Mortgage.

(d) The Agency agrees that if, in connection with the refinancing of an Exempt Mortgage, the Company causes the holder of the Exempt Mortgage to assign the Exempt Mortgage to a new holder and thereby causes Mortgage Recording Taxes on the Exempt Mortgage (as assigned) to continue to be deferred, and/or either with the existing holder or the new holder of the Exempt Mortgage, enters into any extension, modification or other amendment to, or any consolidation or restatement of, the Exempt Mortgage (as assigned, if applicable), the Agency will not object to such assignment, extension, modification, amendment, consolidation or restatement, as applicable, provided that (i) the Agency is made a party to the Exempt Mortgage as so assigned, extended, modified, amended, consolidated or restated, as applicable, (ii) the Exempt Mortgage, as so assigned, extended, modified, amended, consolidated or restated, as applicable, has provisions reasonably required by the Agency, (iii) New Money, if any, is initially secured by a Gap Mortgage, and (iv) the Company makes the following payments (as applicable) at the time of refinancing to the NYCDOF:

(x) Mortgage Recording Taxes with respect to any Gap Mortgage; and

(y) NPV-PILOMRT with respect to any Non-Exempt Principal less the amount of any principal for which Mortgage Recording Taxes and/or PILOMRT and/or NPV-PILOMRT have already been paid or are being concurrently paid.

(e) If this Agreement terminates prior to the Expiration Date and, as a result there is Non-Exempt Principal for which Mortgage Recording Taxes, PILOMRT, NPV-PILOMRT and/or a payment under Section 5.4 has not been paid, the Company shall either pay PILOMRT with respect to such Non-Exempt Principal or deliver in-lieu thereof a satisfaction of the Exempt Mortgage to the Agency.

(f) The Company agrees that, notwithstanding delivery by the Company of a satisfaction of an Exempt Mortgage on the Expiration Date or on any earlier date when this Agreement may be terminated, or evidence of any reduction in the anticipated amount of Non-Exempt Principal outstanding as of the Expiration Date, the Agency shall not be obligated to refund to the Company any amounts of PILOMRT or NPV-PILOMRT previously paid.

Section 5.4. Recapture of Public Benefits. It is understood and agreed by the parties to this Agreement that the Agency is entering into this Agreement in order to provide financial assistance to the Company for the Project and to accomplish the public purposes of the Act. In consideration therefor, the Company hereby agrees as follows:

(a) For purposes of this Section 5.4, the following terms shall have the meanings specified below:

Benefits shall mean the deferral from any applicable mortgage recording taxes, and filing and recording fees.

Operations Commencement Date shall mean the Closing Date.

Recapture Event shall mean any one of the following events:

(i) [Reserved]

(ii) Except as permitted by written consent of the Agency pursuant to and in accordance with Section 8.20, the Company shall have liquidated all or substantially all of its operating assets or shall have ceased all or substantially all of its operations.

(iii) The Company shall have transferred all or substantially all of its employees to a location outside of the City.

(iv) Either or both of the Facilities have ceased to be the Approved Facilities and/or the Company shall have substantially changed the scope and nature of its operations at either or both of the Facilities.

(v) Except as permitted by written consent of the Agency pursuant to and in accordance with Section 8.20, the Company shall have sold, leased or otherwise disposed of all or substantially all of the Facilities.

(vi) The Company shall have subleased all or part of the Facilities in violation of Section 8.9.

(vii) The Company shall have relocated all or substantially all of its operations at the Facilities to another site; provided, however, and notwithstanding the foregoing, such relocation shall not be a Recapture Event if (A) the Company has relocated its operations at the Facilities and at least 90% of its employees employed at the Facilities prior to the relocation, to another site within the City, (B) the Company maintains, for the remaining balance of the Recapture Period, an employment level equal

to at least 90% of the number of employees employed by the Company at the Facilities prior to relocation, and (C) the Company shall satisfy such other additional conditions as the Agency may from time to time impose provided such additional conditions are reasonable and uniformly imposed, at the time, to other similar transactions under similar circumstances. There shall arise another Recapture Event upon the failure of the Company to satisfy continuously the foregoing requirements for the remaining balance of the Recapture Period. Upon the occurrence of such subsequent Recapture Event, the Agency shall have the right to demand payment of all amounts due under Section 5.4(b) or (c), and the calculation of interest pursuant to Section 5.4(c)(iii) shall assume that the subsequent Recapture Event replaces the original Recapture Event for purposes of that computation. The determination of the pre-relocation, 90%-employment level shall be done in a manner, and in respect of a date or period of time, that the Agency deems appropriate in its sole discretion.

Notwithstanding the foregoing, a Recapture Event shall not be deemed to have occurred if the Recapture Event:

(A) shall have arisen as a direct, immediate result of (x) force majeure as defined in Section 12.1, (y) a taking or condemnation by governmental authority of all or substantially all of the Facilities, or (z) the inability at law of the Company to rebuild, repair, restore or replace the Facilities after the occurrence of a Loss Event to substantially its condition prior to such Loss Event, which inability shall have arisen in good faith through no fault on the part of the Company or any Affiliate, or

(B) is deemed, in the sole discretion of the Agency, to be (y) minor in nature, or (z) a cause of undue hardship to the Company were the Agency to recapture any Benefits.

Recapture Period shall mean the period of time commencing on the Closing Date, and expiring on the date which is the tenth anniversary of the Closing Date.

(b) [Reserved]

(c) If there shall occur a Recapture Event during the Recapture Period, the Company shall pay to the Agency as a return of Financial Assistance conferred by the Agency, the following amounts (as applicable) upon demand by the Agency:

(i) If the Recapture Event occurs within the first six (6) years after the Closing Date, one hundred percent (100%) of the Benefits.

(ii) If the Recapture Event occurs within any month during any one of the seventh, eighth, ninth or tenth years after the Closing Date, X percent of the Benefits (where "X" is a percent equal to 100% less Y, and where "Y" equals the product of 1.666% and the number of months elapsed commencing with the first month of the seventh year through and including the month in which the Recapture Event occurs).

(iii) The principal of the Benefits to be recaptured, whether pursuant to clause (i) or (ii) above, shall bear interest at a rate equal to the lesser of (x) the maximum

amount of interest permitted by law, and (y) the statutory judgment rate, compounded daily, commencing from the date that any amount of Benefit principal has accrued to the Company, through and including the date such principal is repaid in full; such that Benefit principal comprising mortgage recording taxes, or filing and recording fees, shall be deemed to have accrued to the Company on the Closing Date. The "statutory judgment rate" shall be the statutory judgment rate in effect on the date of the Agency's demand.

For purposes of this Section 5.4, demand for payment by the Agency shall be made in accordance with the notice requirements of this Agreement and the due date for payment shall be not less than seven (7) Business Days from the date of the notice.

(d) The Company shall furnish the Agency with written notification of any Recapture Event within ten (10) days of its occurrence and shall subsequently provide to the Agency in writing any additional information that the Agency may request.

(e) The provisions of this Section 5.4 shall survive the termination of this Agreement for any reason whatsoever, notwithstanding any provision of this Agreement to the contrary.

ARTICLE VI

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 6.1. Damage, Destruction and Condemnation. In the event that at any time during the term of this Agreement the whole or part of either of the Facilities shall be damaged or destroyed (a "Damage Event"), or taken or condemned by a competent authority for any public use or purpose, or by agreement between the Port Authority and/or the Company and those authorized to exercise such right, or if the temporary use of either of the Facilities shall be so taken by condemnation or agreement (a "Condemnation Event"; a Damage Event or a Condemnation Event being collectively referred to as a "Loss Event"):

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

(ii) there shall be no abatement, postponement or reduction in the installment purchase payments or other amounts payable by the Company under this Agreement or any other Security Document or Master Trust Document to which it is a party, and the Company 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, and

(iii) the Company will promptly give written notice of such Loss Event to the Agency, the Master Trustee and the Trustee, generally describing the nature and extent thereof.

Section 6.2. Loss Proceeds.

(a) The Agency, the Trustee, the Master Trustee and the Company 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 Company, be subject to the written approval of the Company, the Master Trustee and the Trustee (such approvals not to be unreasonably withheld).

(b) The Net Proceeds with respect to the affected Facility shall be paid to the Master Trustee and applied in accordance with the Master Trust Indenture.

Section 6.3. Election to Rebuild or Terminate.

(a) (i) Upon the occurrence of a Damage Event affecting a Facility with respect to which the Company shall be obligated under the related Ground Lease to rebuild, replace, repair or restore the affected Facility, the Company shall at its own cost and expense (except to the extent paid from the Net Proceeds), promptly and diligently rebuild, replace, repair or restore the affected Facility, in accordance with the Master Trust Documents, the related Ground Lease and Facility Leases, to substantially its condition immediately prior to the Damage Event, or to a condition of at least equivalent value, operating efficiency and function, consistent with the Act and not such as to change the nature of the affected Facility so that it would not constitute a qualified "project" under the Act or an exempt "airport facility" within the meaning

of Section 142(a)(1) of the Code, regardless of whether or not the Net Proceeds derived from the Damage Event shall be sufficient to pay the cost thereof, and the Company shall not by reason of payment of any such excess costs be entitled to any reimbursement from the Agency, the Trustee, the Master Trustee or any Bondholder, nor shall the installment purchase payments or other amounts payable by the Company under this Agreement be abated, postponed or reduced.

(ii) Promptly following the occurrence of the Damage Event, the Company shall promptly and diligently proceed in good faith to settle the claims with the related insurers.

(iii) In the event the Company shall be obligated under the related Ground Lease to rebuild, replace, repair or restore the affected Facility and shall fail to do so, for purposes of the related Ground Lease, the Master Trustee shall be deemed obligated to so rebuild, replace, repair or restore such Facility and thereby request the Port Authority to disburse the Net Proceeds for purposes thereof.

(b) Upon the occurrence of a Damage Event affecting a Facility with respect to which the Company (y) shall not be obligated under the related Ground Lease to rebuild, replace, repair or restore the affected Facility, and (z) shall not elect to rebuild, replace, repair or restore the affected Facility in accordance with the Master Trust Indenture, the Company shall effect the redemption (A) in part of the Bonds on the redemption date as so determined in accordance with the Master Trust Indenture but not later than one hundred and twenty (120) days following the receipt by the Master Trustee of the Net Proceeds resulting from such Damage Event, to the nearest Authorized Denomination to the extent of such Net Proceeds, or (B) in whole of the Bonds if the affected Facility shall be the remaining Facility, on the redemption date as so determined in accordance with the Master Trust Indenture but not later than one hundred and eighty (180) days following the Damage Event. If the Bonds are to be redeemed in whole, the Company shall exercise its option to redeem the Bonds in whole, and the amount of the Net Proceeds so recovered shall be transferred by the Master Trustee to the Trustee and deposited to the Redemption Account of the Bond Fund, and the Company shall thereupon pay to the Trustee for deposit in the Redemption Account of the Bond Fund an amount which, when added to any amounts then in the Bond Fund and available for that purpose, shall be sufficient to retire and redeem the Bonds in whole at the earliest possible date (including, without limitation, principal and interest to the maturity or redemption date and redemption premium, if any), and to pay the expenses of redemption, the fees and expenses of the Agency, the Bond Registrar, the Trustee and the Paying Agents, together with all other amounts due under the Indenture and under the other Security Documents, and any amounts required to be rebated to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement, and such amount shall be applied, together with such other available moneys in the Bond Fund, to such redemption or retirement of the Bonds on said redemption or maturity date.

(c) Upon the occurrence of a Condemnation Event affecting a Facility with respect to which the Company shall be obligated under the related Ground Lease to rebuild, replace, repair or restore the affected Facility, the Company shall at its own cost and expense (except to the extent paid from the Net Proceeds), promptly and diligently rebuild, replace, repair or restore the affected Facility, in accordance with the Master Trust Documents, the related Ground Lease and Facility Leases, to substantially its condition immediately prior to the Condemnation Event, or to a condition of at least equivalent value, operating efficiency and

function, consistent with the Act and not such as to change the nature of the affected Facility so that it would not constitute a qualified "project" under the Act or an exempt "airport facility" within the meaning of Section 142(a)(1) of the Code, regardless of whether or not the Net Proceeds derived from the Condemnation Event shall be sufficient to pay the cost thereof, and the Company shall not by reason of payment of any such excess costs be entitled to any reimbursement from the Agency, the Trustee, the Master Trustee or any Bondholder, nor shall the installment purchase payments or other amounts payable by the Company under this Agreement be abated, postponed or reduced.

(d) Upon the occurrence of a Condemnation Event affecting a Facility with respect to which the Company (y) shall not be obligated under the related Ground Lease to rebuild, replace, repair or restore the affected Facility, and (z) shall not elect to rebuild, replace, repair or restore the affected Facility, the Company shall effect the redemption (A) in part of the Bonds on the redemption date as so determined in accordance with the Master Trust Indenture but not later than one hundred and twenty (120) days following the receipt by the Master Trustee of the Net Proceeds resulting from such Condemnation Event, to the nearest Authorized Denomination to the extent of such Net Proceeds, or (B) in whole of the Bonds if the affected Facility shall be the remaining Facility, on the redemption date as so determined in accordance with the Master Trust Indenture but not later than one hundred and eighty (180) days following the Condemnation Event. If the Bonds are to be redeemed in whole, the Company shall exercise its option to redeem the Bonds in whole and the amount of the Net Proceeds so recovered shall be transferred by the Master Trustee to the Trustee and deposited to the Redemption Account of the Bond Fund, and the Company shall thereupon pay to the Trustee an amount which, when added to any amounts then in the Bond Fund and available for that purpose, shall be sufficient to retire and redeem the Bonds in whole at the earliest possible date (including, without limitation, principal and interest to the maturity or redemption date and redemption premium, if any), and to pay the fees and expenses of the Agency, the Bond Registrar, the Trustee and the Paying Agents, together with all other amounts due under the Indenture and under the other Security Documents, and any amounts required to be rebated to the Federal Government pursuant to the Indenture or the Tax Regulatory Agreement, and such amount shall be applied, together with such other available moneys in the Bond Fund, to such redemption or retirement of the Bonds on said redemption or maturity date.

(e) In connection with the rebuilding, replacement, repair or restoration of the affected Facility, the Company shall comply with the requirements of the Master Trust Indenture relative to the disbursement of the Net Proceeds.

(f) All such rebuilding, replacements, repairs, restorations or substitutions shall

(i) automatically be deemed a part of the Facilities and be made subject to this Agreement and the Company Sublease and the lien of the Mortgage,

(ii) not change the nature of either or both of the Facilities as a qualified "project" as defined in and as contemplated by the Act, nor change the nature of either or both of the Facilities so that it would not constitute an exempt "airport facility" within the meaning of Section 142(a)(1) of the Code, and

(iii) be effected with due diligence in a good and workmanlike manner, in compliance with the Ground Leases and all applicable Legal Requirements and be promptly and fully paid for by the Company in accordance with the terms of the applicable contract(s) therefor.

ARTICLE VII

COVENANTS OF THE AGENCY

Section 7.1. Quiet Enjoyment. The Agency covenants and agrees that, subject to the terms and provisions of the Mortgage, the Indenture and the other Permitted Encumbrances and Permitted Liens (and any other impairments of title whether or not appearing on the title insurance policies referred to in Section 3.7), so long as the Company shall pay the installment purchase payments and all other sums 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 Facilities by the Company under this Agreement.

Section 7.2. Issuance of Initial Bonds. On the Closing Date:

(i) the Agency will sell and deliver the Initial Bonds in the Authorized Principal Amount under and pursuant to the Bond Resolution and under and pursuant to the Indenture, and the proceeds of sale of the Initial Bonds shall be deposited and applied in accordance with the provisions of the Indenture; and

(ii) the Company will cause (y) the Group Representative on behalf of the Obligated Group to execute and deliver the Initial Bonds Master Note to the Trustee, and (z) the Group Representative to execute and deliver the Special Covenants Agreement on behalf of the Obligated Group to the Agency and the Trustee.

Section 7.3. Issuance of Additional Bonds. The Agency and the Company recognize that under the provisions of and subject to the conditions set forth in the Indenture, the Agency is authorized to enter into a Supplemental Indenture and issue one or more series of Additional Bonds on a parity with the Initial Bonds for the purpose of (x) providing funds in excess of the Net Proceeds of insurance or eminent domain to repair, relocate, replace, rebuild or restore a Facility in the event of damage, destruction or taking by eminent domain, (y) providing extensions, additions or improvements to a Facility, or (z) refunding Outstanding Bonds. If the Company is not in default hereunder, the Agency will consider the issuance of a Series of Additional Bonds in a principal amount as is specified in a written request in accordance with the applicable provisions set forth in the Indenture.

Section 7.4. Pledge and Assignment to Trustee. As security for the Obligations including the payment of the Initial Bonds Master Note, the Company and the Agency shall, pursuant to the Mortgage, grant to the Master Trustee a mortgage lien on and a security interest in their respective leasehold interests in the Facilities prior to the liens of the Company Sublease and this Agreement. As security for the payment of the Bonds, the Agency shall pledge and assign to the Trustee pursuant to the Indenture all of the Agency's right, title and interest (except for the Agency's Reserved Rights) in this Agreement, including all installment purchase payments hereunder, and in furtherance of said pledge the Agency will unconditionally assign such installment purchase payments to the Trustee for deposit in the Bond

Fund in accordance with the Indenture. The Company consents to the lien and security interest, and pledge and assignment of this Agreement described in this Section 7.4.

Section 7.5. Agency to Make Bond Registration Books Available. The Agency shall at all times make available or cause to be made available to the Company its registration books (maintained at the designated corporate trust office of the Trustee) containing the names and addresses of the Bondholders if known.

ARTICLE VIII

COVENANTS OF THE COMPANY

Section 8.1. Insurance.

(a) Definitions. For purposes of this Section 8.1, the following terms shall have the meanings specified below:

Certificate means an ACORD certificate evidencing insurance.

CGL means commercial general liability insurance.

Contractor(s) means, individually or collectively, a contractor or subcontractor providing materials and/or labor and/or other services in connection with any Construction, but not including a GC, CM or any architect or engineer providing professional services.

CM means a construction manager providing construction management services in connection with any Construction.

Construction means any construction, reconstruction, restoration, renovation, alteration and/or repair on, in, at or about the Site or the Improvements, including any construction, reconstruction, restoration, alteration and/or repair required under this Agreement in connection with the Facilities.

GC means any general contractor providing general contracting services in connection with any Construction.

Insured means the Company.

Insurer means any entity writing issuing a Policy.

ISO means the Insurance Services Office or its successor.

ISO Form CG-0001 means the CGL form published by ISO at the Closing Date.

Policy(ies) means, collectively or individually, the policies required to be obtained and maintained pursuant to Section 8.1(b) and (c).

SIR means self-insured retention.

U/E means Umbrella or Excess Liability insurance.

Workers' Compensation means Workers' Compensation, disability and employer liability insurance.

(b) Required Insurance. Except during periods of Construction, the Insured shall obtain and maintain the following insurance:

(i) CGL with \$1,000,000 minimum per occurrence; and \$2,000,000 minimum in the aggregate. This Policy shall contain coverage for contractual liability, products and completed operations, and premises operations, including coverage for bodily-injury, including death, and property damage liability, broadened to include or equivalent separate policies covering Baggage Legal Liability, Cargo Legal Liability, Warehousemen's Legal Liability, and Fire Legal Liability, all of which latter insurance shall have minimum limits as to the aforesaid Baggage Legal Liability, Cargo Legal Liability, Warehousemen's Legal Liability and Fire Legal Liability policies as follows:

Baggage Legal Liability	\$10,000,000
Cargo Legal Liability	\$10,000,000
Warehousemen's Legal Liability	\$10,000,000
Fire Legal Liability	\$10,000,000

(ii) U/E with \$99,000,000 minimum per occurrence on terms consistent with CGL. The excess coverage provided under U/E shall be incremental to the CGL to achieve minimum required coverage of \$100,000,000 per occurrence.

(iii) Auto liability insurance with \$25,000,000 combined single limit. The Insured shall obtain auto liability insurance in the foregoing amounts for owned, non-owned and hired vehicles. Coverage should be at least as broad as ISO Form CA0001, ed. 10/01.

(iv) Workers Compensation satisfying State statutory limits, in the event the Company has any employees. Coverage for employer liability shall be in respect of any work or operations in, on or about the Facility Realty.

The required total minimum limits of liability set forth above may be satisfied with primary limits only or any combination of primary and U/E, at the discretion of the Company.

(c) Required Insurance During Periods of Construction. In connection with any Construction and throughout any period of such Construction, the Company shall cause the following insurance requirements to be satisfied:

(i) The Insured shall obtain and maintain Policies in accordance with all requirements set forth in Section 8.1(b).

(ii) Any GC or CM shall obtain and maintain the following Policies:

(A) CGL and U/E in accordance with the requirements in Section 8.1(b), subject to the following modifications: (x) coverage shall be in an aggregate minimum amount of \$100,000,000 per project aggregate, and (y) completed operations coverage shall extend (or be extended) for an additional five (5) years after completion of the Construction (as such completion is

evidenced by delivery of a certificate of an Authorized Representative of the Company to such effect);

(B) Auto liability insurance in accordance with the requirements in Section 8.1(b); and

(C) Workers' Compensation in accordance with the requirements in Section 8.1(b).

(iii) Notwithstanding preceding subsections "i" and "ii," during Construction aggregate minimum coverage in the amount of \$100,000,000 (combined CGL and U/E) may be achieved by any combination of coverage amounts between the Insureds on the one hand and the GC or CM on the other. In its sole and absolute discretion, the Agency may, for a period of Construction, reduce aggregate minimum coverage to an amount (combined CGL and U/E) that is less than \$100,000,000; provided that the Agency agrees to such reduction in writing for specific Construction within a specified period of time.

(iv) Each Contractor shall obtain and maintain the following insurance:

(A) CGL and U/E in accordance with the requirements in Section 8.1(b) except that, in addition, completed operations coverage shall extend (or be extended) for an additional five (5) years after completion of the Construction (as such completion is evidenced by delivery of a certificate of an Authorized Representative of the Company to such effect);

(B) Auto Liability insurance in accordance with the requirements in Section 8.1(b); and

(C) Workers' Compensation in accordance with the requirements in Section 8.1(b).

(d) Required Policy Attributes. Except as the Agency and the Trustee shall expressly otherwise agree in writing in their sole and absolute discretion:

(i) The Company shall cause each Policy (other than Worker's Compensation insurance) to name the Agency, the Master Trustee and the Trustee as additional insureds on a primary and non-contributory basis as more particularly required in Section 8.1(f)(i).

(ii) CGL shall not be subject to SIR.

(iii) CGL shall be written on either ISO Form CG-0001 or on such other comparable form.

(iv) Without limiting the application of any other requirement under this Section 8.1, no Policy shall limit (whether by exception, exclusion, endorsement, script or other modification) any of the following coverage attributes:

(A) contractual liability coverage insuring the contractual obligations of the Insureds;

(B) the right of the Insured to name additional insureds including the Agency, the Master Trustee and the Trustee;

(C) the applicability of CGL coverage to the Agency, the Master Trustee and the Trustee as additional insureds in respect of liability arising out of any of the following claims: (x) claims against the Agency and/or the Master Trustee and/or the Trustee by employees of an Insured, or (y) claims against the Agency and/or the Master Trustee and/or the Trustee by any GC, CM, Contractor, architect or engineer or by the employees of any of the foregoing, or (z) claims against the Agency and/or the Master Trustee and/or the Trustee arising out of any work performed by a GC, CM, Contractor, architect or engineer.

(v) U/E shall follow the form of CGL except that U/E may be broader.

(vi) Each Policy, other than insurance written as U/E, shall provide primary insurance and the issuing Insurer shall not have a right of contribution from any other insurance policy insuring the Agency and/or the Master Trustee and/or the Trustee.

(vii) In each Policy, the Insurer shall waive, as against any Person insured under such Policy including any additional insured, the following: (x) any right of subrogation, (y) any right to set-off or counterclaim against liability incurred by a primary insured or any additional insured, and (z) any other deduction, whether by attachment or otherwise, in respect of any liability incurred by any primary insured or additional insured.

(viii) Policies shall not be cancelled, or allowed to lapse or expire, without at least thirty (30) days' prior written notice to the Agency, the Master Trustee and the Trustee as additional insureds.

(ix) Each Policy under which the Agency, the Master Trustee and the Trustee is an additional insured shall provide that the Agency, the Master Trustee and the Trustee will not be liable for any insurance premium, commission or assessment under or in connection with any Policy.

(e) Required Insurer Attributes. All Policies must be issued by Insurers satisfying the following requirements:

(i) Insurers shall have a minimum AM Best rating of A minus.

(ii) Insurers must be admitted or non-admitted Authorized insurers, as defined in Section 107(a) of the New York State Insurance Law.

(f) Required Evidence of Compliance. The Company shall deliver or cause to be delivered evidence of all Policies required hereunder as set forth in this Section 8.1(f):

(i) All Policies. With respect to all Policies on which an Insured is to be a primary insured, the Insured shall deliver to the Agency, the Master Trustee and the Trustee (A) an annual report or letter of the Company's insurance broker to the effect that the insurance maintained by the Company complies in all material respects with the requirements of this Section 8.1 on or about the earlier of each October 1 or each renewal date of the required insurance policies set forth in this Section 8.1, commencing on or about October 1, 2013, and a (B) Certificate or Certificates evidencing all Policies required by this Section 8.1 (w) at the Closing Date, (x) upon renewal of Policies, (y) prior to the commencement of any Construction, and (z) upon request by the Agency, the Master Trustee or the Trustee. If the Certificate in question evidences CGL, such Certificate shall name the Agency, the Master Trustee and the Trustee as additional insureds in the following manner:

New York City Industrial Development Agency, Wells Fargo Bank, National Association, as Master Trustee, and The Bank of New York Mellon, as Trustee, is each an additional insured on a primary and non-contributory basis. The referenced CGL is written on ISO Form CG-0001 or comparable form without modification to the contractual liability provisions thereof, covering the following premises: Tract 8 and Tract 9A of JFK International Airport, Queens, New York;

(ii) Insurance to be obtained by GCs and CMs. Prior to the commencement of any Construction that entails the services of a GC or CM, the Company shall provide to the Agency, the Master Trustee and the Trustee, in a form satisfactory to the Agency, the Master Trustee and the Trustee, evidence that the GC or CM (as the case may be) has obtained the Policies that it is required to obtain and maintain in accordance with Section 8.1(c).

(iii) Insurance to be obtained by Contractors. In connection with any Construction, the Company shall, upon the written request of the Agency, the Master Trustee or the Trustee, cause any or all Contractors to provide evidence, satisfactory to the Agency, the Master Trustee and the Trustee, that such Contractors have obtained and maintain the Policies that they are required to obtain and maintain in accordance with the requirements of Section 8.1(c).

(g) Notice. The Company shall immediately give the Agency, the Master Trustee and the Trustee notice of (y) each occurrence that is reasonably probable to give rise to a claim under the insurance required to be maintained by this Section 8.1, and (z) any lapse, expiration, reduction in amount or material change in any Policy.

(h) Miscellaneous.

(i) If, in accordance with the terms and conditions of this Section 8.1, the Company is required to obtain the consent of the Agency and/or the Master Trustee and/or the Trustee, the Company shall request such consent in a writing provided to the Agency and/or the Master Trustee and/or the Trustee at least thirty (30) days in advance of the commencement of the effective period (or other event) to which the consent pertains.

(ii) The delivery by the Company of a Certificate evidencing auto liability insurance for hired and non-owned vehicles shall, unless otherwise stated by the Company to the contrary, constitute a representation and warranty from the Company to the Agency, the Master Trustee and the Trustee that the Company does not own vehicles.

(iii) The Company shall neither do nor omit to do any act, nor shall it suffer any act to be done, whereby any Policy would or might be terminated, suspended or impaired.

(iv) If insurance industry standards applicable to properties similar to the Facilities and/or operations similar to the operations of the Company materially change; and if, as a consequence of such change, the requirements set forth in this Section 8.1 become inadequate in the reasonable judgment of the Agency, the Master Trustee or the Trustee for the purpose of protecting the Agency, the Master Trustee and the Trustee against third-party claims, then the Agency, the Master Trustee or the Trustee shall have the right to supplement and/or otherwise modify such requirements, provided, however, that such supplements or modifications shall be commercially reasonable.

(v) THE AGENCY, THE MASTER TRUSTEE AND THE TRUSTEE DO NOT REPRESENT THAT THE INSURANCE REQUIRED IN THIS SECTION 8.1, WHETHER AS TO SCOPE OR COVERAGE OR LIMIT, IS ADEQUATE OR SUFFICIENT TO PROTECT THE COMPANY AND ITS OPERATIONS AGAINST CLAIMS AND LIABILITY.

(vi) The Agency, in its sole discretion and without obtaining the consent of the Master Trustee or the Trustee or any other party to the transactions contemplated by this Agreement, may make exceptions to the requirements under this Section 8.1 by a written instrument executed by the Agency. In the event the Company shall request the Agency to make any exception to the requirements under this Section 8.1, the Agency shall not unreasonably withhold its consent. The Company acknowledges that the Agency's decision in this respect will be deemed reasonable if made in furtherance of protecting the Agency from liability.

Section 8.2. Indemnity.

(a) The Company shall at all times indemnify, defend, protect and hold the Agency, the Trustee, the Bond Registrar and the Paying Agent, and any director, member, officer, employee, servant, agent (excluding for this purpose the Company, which is not

obligated hereby to indemnify its own employees, Affiliates or affiliated individuals) thereof and persons under the Agency's control or supervision (collectively, the "**Indemnified Parties**" and each an "**Indemnified Party**") harmless of, from and against any and all claims (whether in tort, contract or otherwise), taxes (of any kind and by whomsoever imposed), demands, penalties, fines, liabilities, lawsuits, actions, proceedings, settlements, costs and expenses, including attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses (collectively, "**Claims**") of any kind for losses, damage, injury and liability (collectively, "**Liability**") of every kind and nature and however caused (except, with respect to any Indemnified Party, Liability arising from the gross negligence or willful misconduct of such Indemnified Party), arising during the period commencing on the Indemnification Commencement Date, and continuing throughout the term of this Agreement, arising upon, about, or in any way connected with either or both the Facilities, the Project, or any of the transactions with respect thereto, including:

(i) the financing or refinancing of the costs of the Facilities or the Project and the marketing, offering, issuance, sale and remarketing of the Bonds for such purpose,

(ii) the effecting of any work done in or about either or both of the Facilities, or any defects (whether latent or patent) in either or both of the Facilities,

(iii) the maintenance, repair, replacement, restoration, rebuilding, construction, renovation, upkeep, use, occupancy, ownership, leasing, subletting or operation of either or both of the Facilities or any portion of either thereof,

(iv) the execution and delivery by an Indemnified Party, the Company or any other Person of, or performance by an Indemnified Party, the Company or any other Person, as the case may be, of, any of their respective obligations under, this Agreement or any other Project Document, or other document or instrument delivered in connection herewith or therewith or the enforcement of any of the terms or provisions hereof or thereof or the transactions contemplated hereby or thereby,

(v) any damage or injury to the person or property of any Person in or on the premises of either or both of the Facilities,

(vi) any imposition arising from, burden imposed by, violation of, or failure to comply with any Legal Requirement, including failure to comply with the requirements of the City's zoning resolution and related regulations, or

(vii) the presence, disposal, release, or threatened release of any Hazardous Substances that are on, from, or affecting either or both of the Facilities; any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Substances; any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Substances, and/or any violation of Legal Requirements, including demands of government authorities, or any policies or requirements of the Agency, which are based upon or in any way related to such Hazardous Substances.

(b) The Company releases each Indemnified Party from, and agrees that no Indemnified Party shall be liable to the Company or its Affiliates for, any Claim or Liability arising from or incurred as a result of action taken or not taken by such Indemnified Party with respect to any of the matters set forth in Section 8.2(a) including any Claim or Liability arising from or incurred as a result of the gross negligence or willful misconduct of such Indemnified Party, or at the direction of the Company with respect to any of such matters above referred to.

(c) An Indemnified Party shall promptly notify the Company in writing of any claim or action brought against such Indemnified Party in which indemnity may be sought against the Company pursuant to this Section 8.2; such notice shall be given in sufficient time to allow the Company 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 Company under this Section 8.2.

(d) Anything to the contrary in this Agreement notwithstanding, the covenants of the Company contained in this Section 8.2 shall be in addition to any and all other obligations and liabilities that the Company may have to any Indemnified Party in any other agreement or at common law, and 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 Indemnified Party relating to the enforcement of the provisions herein specified.

Section 8.3. Compensation and Expenses of the Agency, the Trustee, the Bond Registrar and the Paying Agents; Administrative and Project Fees.

(a) The Company shall pay (or cause the Master Trustee to pay in accordance with the Master Trust Indenture) the fees, costs and expenses of the Agency together with any fees and disbursements incurred by lawyers or other consultants in performing services for the Agency in connection with this Agreement or any other Project Document, together with all fees and costs incurred in connection with complying with Section 8.12(b) (including fees and disbursements of lawyers and other consultants).

(b) On the Closing Date, the Company shall pay to the Agency the following amounts: (i) the Initial Annual Administrative Fee, and (ii) the Project Fee, together with the State Bond Fee in the amount of \$1,056,827.27.

(c) The Company further agrees to pay (or cause the Master Trustee to pay in accordance with the Master Trust Indenture) the Annual Administrative Fee to the Agency on each July 1 following the Closing Date until the earlier of the Expiration Date or the Termination Date. In the event the Company shall fail to pay the Annual Administrative Fee on the date due, the Agency shall have no obligation to deliver notice of such failure to the Company.

(d) The Company shall, to the extent not paid out of the proceeds of the Bonds as financing expenses, pay the following fees, charges and expenses and other amounts: (i) the initial and annual fees of the Trustee for the ordinary services of the Trustee rendered and its ordinary expenses incurred under the Indenture, including fees and expenses as Bond

Registrar and in connection with preparation of new Bonds upon exchanges or transfers or making any investments in accordance with the Indenture, (ii) the reasonable fees and charges of the Trustee and any Paying Agents on the Bonds for acting as paying agents as provided in the Indenture, including the reasonable fees of its counsel, (iii) the reasonable fees, charges, and expenses of the Trustee for extraordinary services rendered by it under the Indenture, including reasonable counsel fees, and (iv) the reasonable fees, costs and expenses of the Bond Registrar.

Section 8.4. Current Facility Equipment Description. The Company covenants and agrees that throughout the term of this Agreement, including upon any replacement, repair, restoration or reconstruction of the Facilities pursuant to Article VI, it will cause Exhibit B — “Description of the Facility Equipment”, together with the “Description of the Facility Equipment” attached as part of the appendices to the Company Sublease, the Indenture and the Mortgage, to be an accurate and complete description of all current items of Facility Equipment. To this end, the Company covenants and agrees that (y) no item of Facility Equipment shall be substituted or replaced by a new item of machinery, equipment or other tangible personal property except pursuant to Section 3.5(a) or Article VI, and (z) no item of Facility Equipment shall be delivered and installed at the Facility Site as part of the Facilities, unless in each case such item of machinery, equipment or other item of tangible personal property shall be accurately and sufficiently described in Exhibit B — “Description of the Facility Equipment”, together with the “Description of the Facility Equipment” in the appendices attached as part of the Company Sublease, the Indenture and the Mortgage, and the Company shall from time to time prepare and deliver to the Agency, the Master Trustee and the Trustee supplements to such Appendices in compliance with the foregoing. Such supplements shall be executed and delivered by the appropriate parties and, at the request of the Trustee or the Master Trustee, duly recorded by the Company, and, at the request of the Trustee or the Master Trustee, additional financing statements with respect thereto shall be duly filed by the Company.

Section 8.5. Signage at Facility Site. Upon commencement of any renovations and/or construction at the Facility Site (including the commencement of any demolition and/or excavation), the Company shall erect on the Facility Site, at its own cost and expense, within easy view of passing pedestrians and motorists, a large and readable sign with the following information upon it (hereinafter, the “Sign”):

*FINANCIAL ASSISTANCE PROVIDED
THROUGH THE
NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY
Mayor _____*

In addition, the Sign shall satisfy the following requirements: (x) format and appearance generally shall be stipulated by the Agency in writing or electronically; (y) the minimum size of the Sign shall be four (4) feet by eight (8) feet; and (z) the Sign shall have no other imprint upon it other than that of the Agency. The Sign shall remain in place at the Facility until completion of the renovations and/or construction. The Company may erect other signs in addition to the Sign.

Section 8.6. Environmental Matters.

(a) The Company shall not cause or permit the Facilities or any part of either thereof to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Substances, except in compliance with all applicable Legal Requirements, nor shall the Company cause or permit, as a result of any intentional or unintentional act or omission on the part of the Company or any occupant or user of either or both of the Facilities, including a Facility Tenant, a release of Hazardous Substances onto the Facilities or onto any other property.

(b) The Company shall comply with, and require and enforce compliance by, all occupants and users of the Facilities (including all Facility Tenants) with all applicable Legal Requirements pertaining to Hazardous Substances, whenever and by whomever triggered, and shall obtain and comply with, and ensure that all occupants and users of the Facilities (including all Facility Tenants) obtain and comply with, any and all approvals, registrations or permits required thereunder.

(c) The Company shall conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Substances, on, from, or affecting either or both of the Facilities in accordance with all applicable Legal Requirements.

(d) In the event the Mortgage is foreclosed, or a deed in lieu of foreclosure is tendered, or this Agreement is terminated as provided in Article IX, the Company shall deliver the Facilities so that the conditions of the Facilities with respect to any and all Hazardous Substances shall conform with all applicable Legal Requirements affecting the Facilities.

Section 8.7. Employment Matters.

(a) Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of the Project 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 Workforce Investment Act of 1998 (29 U.S.C. §2801) at which the Facility Site is located. Except as is otherwise provided by collective bargaining contracts or agreements, the Company agrees, where practicable, to consider first, and cause each of its Affiliates at the Facilities to consider first, persons eligible to participate in the Workforce Investment Act of 1998 (29 U.S.C. §2801) 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.

(b) Upon the Agency's written request, the Company shall provide to the Agency any employment information in the possession of the Company which is pertinent to the Company and the employees of the Company to enable the Agency and/or NYCEDC to comply with its reporting requirements required by City Charter §1301 and any other applicable laws, rules or regulations.

(c) The Company hereby authorizes any private or governmental entity, including The New York State Department of Labor (“DOL”), to release to the Agency and/or NYCEDC, 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 Company and the employees of the Company to enable the Agency and/or NYCEDC to comply with its reporting requirements required by City Charter §1301 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 Company, 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 NYCEDC, and/or the successors and assigns of either, and/or the City, 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 City Charter §1301, (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) Upon the request of the Agency, the Company shall cooperate with the Agency in the development of programs for the employment and/or training of members of minority groups in connection with performing work at the Facilities.

(e) Nothing in this Section shall be construed to required the Company to violate any existing collective bargaining agreement with respect to hiring new employees.

Section 8.8. Non-Discrimination.

(a) At all times during the maintenance and operation of the Facilities, the Company shall not discriminate nor permit any of its Affiliates to discriminate against any employee or applicant for employment because of race, color, creed, age, sex or national origin. The Company shall use its best efforts to ensure that employees and applicants for employment with any Facility Tenant are treated without regard to their race, color, creed, age, sex or national origin. As used herein, the term “treated” shall mean and include 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 Company shall, in all solicitations or advertisements for employees placed by or on behalf of the Company state that all qualified applicants will be considered for employment without regard to race, color, creed or national origin, age or sex.

(c) The Company 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.

Section 8.9. Assignment or Sublease. (a) The Company shall not at any time assign or transfer this Agreement, or sublet all or substantially all of either or both of the Facilities, without, except as provided below, the prior written consents of the Agency, the

Master Trustee and the Trustee (which consents may be unreasonably withheld); provided further, that (y) no consents of the Agency, the Master Trustee or the Trustee shall be required for New Facility Leases entered into in accordance with Section 8.9(d), and (z) the following conditions shall apply:

(1) The Company shall not sublet nor permit to be sublet all or substantially all of either or both of the Facilities, except pursuant to Existing Facility Leases or New Facility Leases entered into pursuant to Section 8.9(d) (in each case to Facility Tenants who shall be conducting air cargo and aviation support activities at either or both of the Facilities) without the prior written consents of the Agency, the Master Trustee and the Trustee (which consents may be unreasonably withheld).

(2) No consent of the Agency, the Master Trustee or the Trustee shall be required for any assignment or transfer of this Agreement by operation of, and effected in accordance with the requirements of, Section 8.20.

(3) No consent of the Agency, the Master Trustee or the Trustee shall be required for any assignment or transfer of this Agreement to a Person who shall be an Affiliate of the Company, provided, however, that such assignment or transfer complies with the conditions therefor set forth in the Master Trust Indenture.

(4) Except as provided in paragraph (2) or (3) above, any assignment or transfer of this Agreement shall require the prior written consents of the Agency, the Master Trustee and the Trustee (which consents may be unreasonably withheld).

(5) With respect to any subletting in whole or in part of either or both of the Facilities, the Company shall nevertheless remain liable to the Agency for the payment of all installment purchase payments 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.

(6) With respect to any assignment or transfer of this Agreement for which no consents of the Agency, the Master Trustee and the Trustee shall be required as above provided, or for which consents of the Agency, the Master Trustee and the Trustee shall be both required and have been given, such assignee or transferee of the Company shall assume in writing in recordable form and agree to keep and perform all of the terms of such assumption on the part of the Company to be kept and performed from the date of original execution and delivery of such assumption.

(7) Any assignee, transferee or sublessee shall be subject to service of process in the State and qualified to do business in the State.

(8) Any assignee, transferee or sublessee shall utilize the Facility or Facilities, as the case may be, as a qualified "project" within the meaning of the Act, and as an exempt "airport facility" within the meaning of Section 142(a)(1) of the Code.

In addition to the conditions set forth above for any assignment or transfer of this Agreement, or any subletting in whole or in part of either or both of the Facilities (other than a

New Facility Lease entered into in accordance with Section 8.9(d)), the following conditions, as applicable, shall also apply:

(i) there shall be delivered to the Agency and the Trustee: (x) except as provided in paragraphs (2), (3), (4) or (6) above, an Opinion of Counsel to the Company to the effect that this Agreement and each other Project Document to which the Company is a party continues in full force and effect as the legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, (y) a Favorable Opinion of Bond Counsel, and (z) an Opinion of Counsel to the assignee or transferee of this Agreement to the effect that such Person has duly and validly assumed all obligations of the Company under this Agreement and each other Project Document to which the Company is a party and that this Agreement and each other Project Document to which the Company is a party as so assumed constitutes the valid and binding obligation of such Person enforceable against such Person in accordance with its terms;

(ii) there shall be delivered to the Agency the Required Disclosure Statement form the assignee, transferee or sublessee in form and substance satisfactory to the Agency;

(iii) any assignment, transfer or sublease shall not violate any provision of either of the Ground Leases, any of the Facility Leases, the Company Sublease, this Agreement, the Project Mortgage or any other Project Document;

(iv) such assignment, transfer or sublease shall in no way diminish or impair the Company's obligation to carry the insurance required under Section 8.1, under the Master Trust Indenture or under the respective Ground Leases, and the Company shall furnish to the Agency, the Master Trustee and the Trustee a certificate of an Independent Insurance Consultant to the effect that such insurance coverage under this Agreement, the Master Trust Indenture and the Ground Leases shall in no manner be limited by reason of such assignment, transfer or sublease;

(v) in the case of any subletting in whole or substantially in whole of either or both of the Facilities, or any assignment or transfer of this Agreement, there shall have been delivered to the Trustee and the Master Trustee a Rating Confirmation Notice; and

(vi) at least ten (10) Business Days prior to the execution of any proposed assignment, transfer or sublease, the Company shall furnish to the Agency, the Master Trustee and the Trustee a substantially final draft of same, and, after execution thereof, shall then furnish a copy of such executed document.

(b) Any consent by the Agency, the Master Trustee or the Trustee 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 Company, or the successors or assigns of the Company, to obtain from the Agency, the Master Trustee and the Trustee, to the extent required hereunder, consent to any other or subsequent assignment, transfer

or sublease, or as modifying or limiting the rights of the Agency, the Master Trustee or the Trustee under the foregoing covenant by the Company.

(c) For purposes of this Section 8.9, any license or other right of possession or occupancy granted by the Company with respect to a Facility having the same substantive characteristics as a lease shall be deemed a lease subject to the provisions of this Section 8.9.

(d) The Company shall not execute, nor suffer to be executed, a New Facility Lease with, or an assignment of a Facility Lease to, a proposed new Facility Tenant (the "Proposed Facility Tenant"), unless the Company shall deliver to the Agency, the Master Trustee and the Trustee prior to such execution, the following:

(i) a substantially final draft of the proposed New Facility Lease (which shall be delivered at least ten (10) days prior to its execution) which New Facility Lease shall include, among other provisions,

(A) a covenant for the benefit of the Agency to defend, indemnify and hold harmless the Agency, including its members, directors, officers, agents and employees, from and against any and all losses, claims, suits, damages, costs, expenses and liabilities arising from or attributable to any act or omission of the Proposed Facility Tenant or its employees or agents in the use or occupancy of the leased premises, and extending all indemnifications conferred upon the Company to each of the Agency, the Master Trustee and the Trustee and their respective members, directors, officers, employees, agents and servants,

(B) provision for comprehensive general liability insurance ("CGL") with a recognized insurance company licensed to do business in the State of New York with minimum Combined Single Limit Coverage of at least \$100,000,000 (including, but not limited to, premises operations, products liability, complete operations, and warehousemen's legal liability covering bodily injury, including death, and property damage liability, the foregoing not to contain care, custody or control exclusions or any exclusions for bodily injury to or sickness, disease or death of any employee of the Proposed Facility Tenant) to insure the Agency, the Master Trustee and the Trustee against any such claims, demands, losses, damages, liabilities and expenses,

(C) an agreement by the Proposed Facility Tenant for the benefit of the Agency that: (i) the CGL policy shall contain coverage for contractual liability, premises operations, and products and completed operations; (ii) the CGL policy shall be written on Form CG-0001; (iii) the CGL policy shall name the Agency as an additional insured; and (iv) the Proposed Facility Tenant shall provide to the Agency at least thirty (30) days before expiration of the CGL policy an ACORD certificate evidencing that the Proposed Facility Tenant has obtained CGL; and that such ACORD certificate shall indicate the Agency as an additional insured as follows: *New York City Industrial Development Agency is an additional insured on a primary and non-contributory basis for Commercial General Liability which is written on Form CG-0001 without modification to the*

contractual liability or waiver-of-subrogation provisions therein and covering the following premises: _____ [address of leased premises],

(D) provision for comprehensive automobile liability insurance covering all owned, non-owned and hired motor vehicles and including automatic coverage for newly acquired vehicles with a Combined Single Limit of not less than \$8,000,000, to insure the Agency, the Master Trustee and the Trustee with respect to such matters; provided, however, that in the case of a Minor New Facility Lease, there shall be no required minimum insurance coverage of \$100,000,000 and \$8,000,000 as provided, respectively, in clauses (B) and (C) above, so long as the Agency, the Master Trustee and the Trustee shall be named as additional insureds under each such coverage,

(E) a limitation on the liability of the landlord under the New Facility Lease to the following effect: "Notwithstanding anything contained in this Lease, in the event of any default or breach by Landlord with respect to any of the terms, covenants and conditions of this Lease to be observed, honored or performed by Landlord, Tenant shall look solely to the estate and property of Landlord in the leasehold estate and Project for the collection of any judgment (or any other judicial procedures requiring the payment of money by Landlord). Landlord shall never be personally liable for any such judgment and no other property or assets of Landlord shall be subject to levy, execution, or other procedures for satisfaction of Tenant's remedies", and

(F) a covenant for the benefit of the Company and the Agency to the effect that the Proposed Facility Tenant agrees to provide to the Company and the Agency upon request information regarding the Proposed Facility Tenant's employment at the leased premises, including the then-current New York State Department of Labor's Form NYS-45, as well as the Agency's employment and benefits report form for subtenants;

(ii) a completed VENDEX questionnaire (or such successor questionnaire as may then be utilized by the Agency), satisfactory to the Agency;

(iii) a Favorable Opinion of Bond Counsel; provided, however, that no Favorable Opinion of Bond Counsel shall be required to be delivered with respect to one or more Minor New Facility Leases: (A) which in the aggregate encompass no more than 10,000 rentable square feet of the Tract 8 Facility, and (B) for activities directly related to the cargo handling functions at the Tract 8 Facility (including, without limitations, cargo expediting, related paperwork processing and issuance of air bills), if the Company shall deliver to the Trustee and the Master Trustee a certificate of an Authorized Representative of the Company to the effect that such Minor New Facility Lease(s) satisfies the conditions set forth in clauses (A) and (B) of this paragraph (iii);

(iv) to the extent required under the related Ground Lease, the approval by the Port Authority;

(v) an executed Tenant Certificate and Agreement;

(vi) a certificate of an Authorized Representative of the Company to the effect that the terms, rentals, payments, conditions, provisions and agreements reflected in the New Facility Lease were negotiated on a good faith, arms'-length, commercial basis, and the rentals to be paid thereunder by the Proposed Facility Tenant are not less than applicable fair market value rentals for the premises subject thereto;

(vii) a Conduct Representative to the Agency from the Proposed Facility Tenant, together with a further representation to the Agency to the same effect as set forth in Section 2.2(f) but as to the Proposed Facility Tenant; and

(viii) a certificate of an Authorized Representative of the Company to the effect that (y) the intended use of the portion of the Facilities by the Proposed Facility Tenant would constitute a qualified "project" under the Act, and a qualified exempt "airport facility" within the meaning of Section 142(a)(1) of the Code, and (z) all conditions set forth in this Section 8.9 to the execution of the New Facility Lease have either been met or expressly waived by the Agency, the Master Trustee and the Trustee.

The Agency, the Master Trustee and the Trustee may, jointly and not severally, within their sole and absolute discretion, waive any and all of the above conditions. Promptly upon the execution thereof, the Company shall furnish certified copies of the New Facility Lease to the Agency, the Master Trustee and the Trustee.

Section 8.10. Retention of Title to or of Interest in Facilities; Grant of Easements.

(a) Neither the Company nor the Agency shall sell, assign, encumber (other than Permitted Encumbrances or Permitted Liens), convey or otherwise dispose of its respective interest in the Facilities, including the Improvements, or any part of the Facilities or interest therein during the term of this Agreement, except as set forth in Sections 3.5, 4.1, Article VI, 8.9 and 9.2 or in this Section, except in accordance with the Master Trust Indenture, and any purported disposition without such consents shall be void.

(b) The Company may, with the prior written consents of the Agency, the Master Trustee and the Trustee (such consents not to be unreasonably withheld or delayed), so long as there exists no Event of Default hereunder, grant such rights of way or easements over, across, or under, the Facility Site, or grant such permits or licenses in respect to the use thereof, as shall be necessary or convenient in the opinion of the Company for the operation or use of the Facilities, (or as shall be desirable for the use of another parcel of property at the Airport or for use by the City, the Port Authority or a public utility), provided that such rights of way, easements, permits or licenses shall not materially adversely affect Gross Revenues or the use or operation of either or both of the Facilities or have a Material Adverse Effect; provided, further, that any consideration received by the Company from the granting of said rights-of-way, easements, permits or licenses shall be applied in accordance with the Master Trust Indenture.

Section 8.11. Discharge of Liens.

(a) If any lien, encumbrance or charge is filed or asserted (including 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 either or both of the Facilities or against any of the installment purchase payments or other payments payable under this Agreement or the interest of the Agency or the Company under the Company Sublease or under this Agreement, other than Liens for Impositions not yet payable, Permitted Encumbrances, Permitted Liens, or Liens being contested as permitted by Section 8.11(b), the Company 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, the Master Trustee and the Trustee 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 Facilities.

(b) The Company may at its sole cost and expense contest (after prior written notice to the Agency, the Master Trustee and the Trustee), 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 (i) such proceeding shall suspend the execution or enforcement of such Lien against either or both of the Facilities or the interest of the Company or the Agency in the Company Sublease or in this Agreement, or against any of the installment purchase payments or other amounts payable under the Company Sublease or under this Agreement, (ii) neither of the Facilities nor any part of either thereof or interest therein would be in any danger of being sold, forfeited or lost, (iii) neither the Company, the Agency, the Master Trustee nor the Trustee would be in any danger of any civil or any criminal liability, other than normal accrual of interest, for failure to comply therewith, and (iv) the Company shall have furnished such security, if any, as may be required in such proceedings or as may be reasonably requested by the Agency, the Master Trustee or the Trustee to protect the security intended to be offered by the Security Documents and the Master Trust Documents.

Section 8.12. Recording and Filing.

(a) The Agency shall cause this Agreement, as originally executed, or a memorandum hereof, to be recorded (at the sole cost and expense of the Company) subsequent to the recordation of the Mortgage, the Indenture and the Company Sublease, in the appropriate offices of the Register of the City, or in such other offices as may at the time be provided by law as the proper place for the recordation thereof. In addition, the security interest granted by the Agency to the Trustee pursuant to the Indenture in the rights and other intangible interests described therein, shall be perfected by the filing of financing statements at the direction of the Agency (at the sole cost and expense of the Company) in the office of the Secretary of State of the State in the City of Albany, New York, and in the offices of such Register of the City, which

financing statements shall be in accordance with the New York State Uniform Commercial Code-Secured Transactions.

(b) The Agency and the Company acknowledge that, as of the Closing Date,

(i) Section 9-515 of the New York State Uniform Commercial Code-Secured Transactions provides that an initial financing statement filed in connection with a "public-finance transaction" is effective for a period of thirty (30) years after the date of filing if such initial financing statement indicates that it is filed in connection with a public-finance transaction,

(ii) Section 9-102(67) of the New York State Uniform Commercial Code-Secured Transactions defines a public-finance transaction as a secured transaction in connection with which, in substance, (x) bonds are issued, (y) all or a portion of the bonds have an initial stated maturity of at least twenty (20) years, and (z) the debtor, obligor, secured party or assignee with respect to the collateral or secured obligation is a governmental unit of a state, and

(iii) subject to any future change in law, the initial financing statement as shall be filed with respect to the security interest described above shall therefore have an effective period of thirty (30) years after the date of filing, for the purpose of determining the date by which continuation statements shall be filed.

(c) The parties hereto acknowledge and agree, however, that, because the foregoing financing statements evidence collateral for the Initial Bonds, and because the Initial Bonds are municipal securities with a term that is under twenty (20) years in duration, there is a need under the Uniform Commercial Code of the State of New York to re-file such financing statements in order to preserve the liens and security interests that they create.

Subsequent to the foregoing recordation and filings, in order to preserve the lien, perfection and priority of the security interest of the Indenture, the Company shall re-file financing statements and/or file continuation statements and/or take any other actions (individually or collectively, the "**Continuation Action(s)**"), as hereinafter provided: (i) prepare and deliver to the Trustee all necessary instruments and filing papers, together with remittances equal to the cost of required filing fees and other charges, so that the Trustee may perform the Continuation Actions, or (ii) electronically perform the Continuation Actions and, upon request by the Trustee, deliver to the Trustee written certification (upon which the Trustee may conclusively rely) that such performance has occurred, specifying the Continuation Actions performed, or (iii) perform some of the Continuation Actions in the manner described in clause "(i)" and the others in the manner described in clause "(ii)". The Trustee may conclusively rely upon, when applicable, the certification referred to in clause "(ii)." In the event the Company chooses to have the Trustee perform all or some of the Continuation Actions, as provided in clause "(i)" hereinabove, the Trustee shall reasonably promptly perform such Continuation Actions at the Company's sole expense. The Company shall perform the obligations described hereinabove no later than ten (10) days prior to (i)(y) the fifth (5th) anniversary of the Closing Date, and (z) each fifth (5th) anniversary thereafter, and/or (ii) the date (not covered by clause

"(i)") on which a Continuation Action is to be taken to preserve the lien and security interest of the Indenture.

The Opinion of Counsel to the Company shall be addressed to the Company, the Agency and the Trustee. Counsel shall deliver successive Opinions of Counsel in respect of (i)(y) the fifth (5th) anniversary of the Closing Date, and (z) every five-year period thereafter through the term of the Initial Bonds, and/or (ii) the date of any required Continuation Action not covered by clause "(i)," in each case not later than fifteen (15) days prior to the date on which a Continuation Action is required to be taken. In the Opinion of Counsel to the Company, counsel shall opine as to: (1) what Continuation Actions are necessary; and (ii) the deadline dates for the required Continuation Actions; and (iii) the jurisdictions in which the Continuation Actions must be effected. Counsel in such opinion shall additionally opine that, upon performance of the Continuation Actions by, as the case may be, (i) the Trustee with instruments and papers prepared by the Company, or (ii) the Company through electronic filing, or (iii) the Trustee as to some Continuation Actions, and the Company as to the others through electronic filings, all appropriate steps shall have been taken on the part of the Company, the Agency and the Trustee then requisite to the maintenance of the perfection of the security interest of the Trustee in and to all property and interests which by the terms of the Indenture are to be subjected to the lien and security interest of the Indenture.

(d) Any filings with respect to the Uniform Commercial Code financing statements may be made electronically, and the Agency shall have the right to designate a company (which shall be reasonably acceptable to the Trustee) to facilitate the filing of the Uniform Commercial Code financing statements.

(e) The Company acknowledges and agrees that neither the Agency nor the Trustee, nor any of their respective directors, members, officers, employees, servants, agents, persons under its control or supervision, or attorneys (including Bond Counsel to the Agency), shall have any responsibility or liability whatsoever related in any way to the filing or re-filing of any Uniform Commercial Code financing statements or continuation statements, or the perfection or continuation of perfection of any security interests, or the recording or rerecording of any document, or the failure to effect any act referred to in this Section, or the failure to effect any such act in all appropriate filing or recording offices, or the failure of sufficiency of any such act so effected.

(f) The Company agrees to perform all other acts (including the payment of all fees and expenses) necessary in order to enable the Agency and the Trustee to comply with this Section and with Section 7.07 of the Indenture, including but not limited to, providing prompt notice to the Trustee of any change in either of the name or address of the Company. The Company agrees that the Agency and the Trustee, if permitted by applicable law, may provide for the re-recording of the Indenture or any other Security Document or the filing or re-filing of continuation statements without the cooperation of the Company as necessary at the sole cost and expense of the Company.

Section 8.13. No Further Encumbrances Permitted. The Company shall not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against either or both of the Facilities or any part of either thereof, or the interest of the

Agency or the Company in either or both of the Facilities or the Company Sublease or this Agreement, except for Permitted Encumbrances and Permitted Liens. The Company covenants that it shall take or cause to be taken all action, including all filing and recording, as may be necessary to ensure that there are no mortgage liens on, or security interests in, its interest in the Facilities (other than Permitted Encumbrances and Permitted Liens) prior to the mortgage liens thereon, and security interests therein, granted by the Mortgage.

Section 8.14. Documents Automatically Deliverable to the Agency.

(a) The Company shall immediately notify the Agency of the occurrence of any Event of Default, or any event that with notice and/or lapse of time would constitute an Event of Default under any Project Document. Any notice required to be given pursuant to this subsection shall be signed by an Authorized Representative of the Company 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 Company shall state this fact on the notice.

(b) The Company shall promptly provide written notice to the Agency if any representation or warranty made by the Company pursuant to Section 2.2(dd) would, if made on any date during the term of the Agreement and deemed made as of such date, be false, misleading or incorrect in any material respect.

(c) Within five (5) Business Days after receipt from the Agency of any subtenant survey and questionnaire pertaining to the Facilities, the Company shall complete and execute such survey and questionnaire and return the same to the Agency.

(d) The Company shall deliver all insurance-related documents required by Sections 8.1(f) and 8.1(g).

(e) [Reserved].

(f) [Reserved].

(g) If the Company shall request the consent of the Agency under Section 8.9 to any sublease in whole or in part of the Facilities, or to any assignment or transfer of this Agreement, the Company shall submit such request to the Agency in the form prescribed by the Agency.

Section 8.15. Requested Documents. Upon request of the Agency, the Company shall deliver or cause to be delivered to the Agency within five (5) Business Days of the date so requested:

(a) a copy of the most recent annual financial reports required to be filed under Section 6.10 of the Master Trust Indenture;

(b) a certificate of an Authorized Representative of the Company that the insurance the Company maintains complies with the provisions of Section 8.1, that such insurance has been in full force and effect at all times during the preceding Fiscal Year, and that

duplicate copies of all policies or certificates thereof have been filed with the Agency and are in full force and effect and the evidence required by Section 8.1(f);

(c) copies of any permits, authorizations and licenses from appropriate authorities relative to the occupancy, operation and use of the Facilities;

(d) [Reserved];

(e) [Reserved];

(f) a certificate of an Authorized Representative of the Company as to whether or not, as of the close of the immediately preceding Fiscal Year, and at all times during such Fiscal Year, the Company was in compliance with all the provisions that relate to the Company 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 Company with respect thereto;

(g) upon twenty (20) days prior request by the Agency, a certificate of an Authorized Representative of the Company either stating that to the knowledge of such Authorized Representative after due inquiry there is no default under or breach of any of the terms hereof that, 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;

(h) employment information requested by the Agency pursuant to Section 8.7(b); and

(i) information regarding non-discrimination requested by the Agency pursuant to Section 8.8.

Section 8.16. Periodic Reporting Information for the Agency.

(a) The Company shall not assert as a defense to any failure of the Company to deliver to the Agency any reports specified in this Section 8.16 that the Company shall not have timely received any of the forms from or on behalf of the Agency unless, (i) the Company shall have requested in writing such form from the Agency not more than thirty (30) days nor less than fifteen (15) days prior to the date due, and (ii) the Company shall not have received such form from the Agency at least one (1) Business Day prior to the due date. For purposes of this Section 8.16, the Company shall be deemed to have "received" any such form if it shall have been directed by the Agency to a website at which such form shall be available. In the event the Agency, in its sole discretion, elects to replace one or more of the reports required by this Agreement with an electronic or digital reporting system, the Company shall make its reports pursuant to such system.

(b) Annually, by August 1 of each year, commencing on the August 1 immediately following the Closing Date, until the termination of this Agreement, the Company

shall submit to the Agency the Annual Employment and Benefits Report 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, in the form prescribed by the Agency, certified as to accuracy by an officer of the Company. Upon termination of this Agreement, the Company shall submit to the Agency the Annual Employment and Benefits Report relating to the period commencing the date of the last such Report submitted to the Agency and ending on the last payroll date of the preceding month in the form prescribed by the Agency, certified as to accuracy by the Company. Nothing herein shall be construed as requiring the Company to maintain a minimum number of employees on its respective payroll.

(c) As to all Facility Tenants, the Company shall file with the Agency by the February 1 next following each calendar year, a certificate of an Authorized Representative of the Company with respect to all subtenancies in effect at the Facilities, in the form prescribed by the Agency.

(d) As to all Facility Tenants, at any time during the twelve-month period terminating on the immediately preceding June 30, the Company shall deliver to the Agency by the next following August 1, a completed Subtenant's Employment and Benefits Report with respect to such twelve-month period, in the form prescribed by the Agency.

(e) If the Company shall have had the benefit of a Business Incentive Rate at any time during the twelve-month period terminating on the immediately preceding June 30, the Company shall deliver to the Agency by the next following August 1, a completed Business Incentive Rate Report with respect to such twelve-month period, in the form prescribed by the Agency.

(f) The Company shall deliver to the Agency on August 1 of each year, commencing on the August 1 immediately following the Closing Date, a completed location and contact information report in the form prescribed by the Agency.

Section 8.17. Taxes, Assessments and Charges.

(a) The Company shall pay when the same shall become due all taxes and assessments, general and specific, if any, levied and assessed upon or against either or both of the Facilities, the Company Sublease, this Agreement, any ownership estate or interest of the Agency or the Company in either or both of the Facilities, or the installment purchase payments or other 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 Facilities, all of which are herein called "**Impositions**". The Company may pay any Imposition in installments if so payable by law, whether or not interest accrues on the unpaid balance.

(b) In the event the Facilities are exempt from Impositions solely due to the Agency's interest in the Facilities, the Company shall pay all Impositions to the appropriate

taxing authorities equivalent to the Impositions that would have been imposed on the Facilities if the Agency had no interest in the Facilities.

(c) The Company may at its sole cost and expense contest (after prior written notice to the Agency, the Master Trustee and the Trustee), 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 (i) such proceeding shall suspend the execution or enforcement of such Imposition against the Facilities or any part of either thereof or interest therein, or in the Company Sublease or in this Agreement, of the Agency or the Company or against any of the installment purchase payments or other amounts payable under this Agreement, (ii) neither of the Facilities nor any part of either thereof or interest therein would be in any danger of being sold, forfeited or lost, (iii) neither the Company, the Agency, the Master Trustee nor the Trustee would be in any danger of any civil or any criminal liability, other than normal accrual of interest, for failure to comply therewith, and (iv) the Company shall have furnished such security, if any, as may be required in such proceedings or as may be reasonably requested by the Agency, the Master Trustee or the Trustee to protect the security intended to be offered by the Security Documents and the Master Trust Documents.

Section 8.18. Compliance with Legal Requirements.

(a) The Company shall not occupy, use or operate the Facilities, or allow the Facilities or any part thereof to be occupied, used or operated, for any unlawful purpose or in violation of any certificate of occupancy affecting either or both of the Facilities 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.

(b) Throughout the term of this Agreement and at its sole cost and expense, the Company shall promptly observe and comply with all applicable Legal Requirements, whether foreseen or unforeseen, ordinary or extraordinary, that shall now or at any time hereafter be binding upon or applicable to the Company, the Facilities, any Facility Tenant or other occupant, user or operator of either or both the Facilities or any portion of either thereof, and will observe and comply with all conditions, requirements, and schedules necessary to preserve and extend all rights, licenses, permits (including zoning variances, special exception and non conforming uses), privileges, franchises and concessions. The Company will not, without the prior written consent of the Agency, the Master Trustee and the Trustee (which consents 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 either or both of the Facilities or any part of either thereof.

(c) The Company may at its sole cost and expense contest in good faith the validity, existence or applicability of any of the matters described in Section 8.18(b) if (i) such contest shall not result in either or both of the Facilities or any part of either thereof or interest therein being in any danger of being sold, forfeited or lost, (ii) such contest shall not result in the Company, the Agency, the Trustee or the Master Trustee being in any danger of any civil or any criminal liability for failure to comply therewith, and (iii) the Company shall have furnished such security, if any, as may be reasonably requested by the Agency, the Master Trustee or the

Trustee to protect the security intended to be offered by the Security Documents and the Master Trust Documents for failure to comply therewith.

Section 8.19. Operation as Approved Facilities and as a "Project".

(a) The Company will not take any action, or suffer or permit any action, if such action would cause the Facilities not to be the Approved Facilities or a qualified "project" within the meaning of the Act or an exempt "airport facility" within the meaning of Section 142(a)(1) of the Code.

(b) The Company will not fail to take any action, or suffer or permit the failure to take any action, if such failure would cause the Facilities not to be the Approved Facilities or a qualified "project" within the meaning of the Act.

(c) The Company will permit the Trustee and the Master Trustee and their respective duly authorized agents, at all reasonable times upon written notice to enter upon the Facilities and to examine and inspect the Facilities and exercise their rights hereunder, under the Indenture and under the other Security Documents and under the Master Trust Documents with respect to the Facilities. The Company will further permit the Agency, or its duly authorized agent, upon reasonable notice, at all reasonable times, to enter the Facilities, but solely for the purpose of assuring that the Company is operating the Facilities, or is causing the Facilities to be operated, as the Approved Facilities and a qualified "project" within the meaning of the Act consistent with the Approved Project Operations and with the public purposes of the Agency.

Section 8.20. Restrictions on Dissolution and Merger.

(a) The Company 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,
- (iii) continue to be organized under the laws of, or qualified to do business in, the State,
- (iv) not liquidate, wind up or dissolve or otherwise dispose of all or substantially all of its property, business or assets ("**Transfer**") remaining after the Closing Date, except as provided in Section 8.20(b),
- (v) not consolidate with or merge into another Entity or permit one or more Entities to consolidate with or merge into it ("**Merge**"), except as provided in Section 8.20(b), and
- (vi) not change or permit the change of any Principal of the Company, or a change in the relative Control of the Company of any of the existing Principals, except in each case as provided in Section 8.20(c).

(b) Notwithstanding Section 8.20(a), the Company may Merge or participate in a Transfer if the following conditions are satisfied on or prior to the Merger or Transfer, as applicable:

(i) when the Company is the surviving, resulting or transferee Entity,

(1) the Company shall satisfy the requirements therefor set forth in the Master Trust Indenture,

(2) the Company shall deliver to the Agency and the Trustee a Favorable Opinion of Bond Counsel, and

(3) the Company shall deliver to the Agency a Required Disclosure Statement with respect to itself as surviving Entity in form and substance satisfactory to the Agency; or

(ii) when the Company is not the surviving, resulting or transferee Entity (the "**Successor Company**"),

(1) the Successor Company shall satisfy the requirements therefor set forth in the Master Trust Indenture,

(2) the Successor Company shall be solvent and subject to service of process in the State and organized under the laws of the State, or under the laws of any other state of the United States and duly qualified to do business in the State,

(3) the Successor Company shall have assumed in writing all of the obligations of the Predecessor Company contained in this Agreement and in all other Project Documents to which the Predecessor Company shall have been a party,

(4) the Successor Company shall have delivered to the Agency a Required Disclosure Statement in form and substance acceptable to the Agency acting in its sole discretion,

(5) each Principal of the Successor Company shall have delivered to the Agency a Required Disclosure Statement in form and substance acceptable to the Agency acting in its sole discretion,

(6) the Successor Company shall have delivered to the Agency and the Trustee, in form and substance acceptable to the Agency and the Trustee, an Opinion of Counsel to the effect that (y) this Agreement and all other Project Documents to which the predecessor Company (the "**Predecessor Company**") shall be a party constitute the legal, valid and binding obligations of the Successor Company and each is enforceable in accordance with their respective terms to the same extent as it was enforceable against the Predecessor Company, and (z) such

action does not legally impair the security for the Holders of the Bonds afforded by the Security Documents and the Master Trust Documents, and

(7) the Successor Company delivers to the Agency and the Trustee a Favorable Opinion of Bond Counsel.

(c) If there is a change in Principals of the Company, or a change in the Control of the Company, the Company shall deliver to the Agency prompt written notice thereof (including all details that would result in a change to Exhibit B — “Principals of Company”) to the Agency together with a Required Disclosure Statement in form and substance acceptable to the Agency acting in its sole discretion.

Section 8.21. Security Interest and Further Assurances. (a) The Agency shall pledge and assign to the Trustee pursuant to the Indenture all of the Agency’s right, title and interest (except for the Agency’s Reserved Rights) in this Agreement, including all installment purchase payments hereunder, and in furtherance of said pledge the Agency will unconditionally assign such installment purchase payments to the Trustee for deposit in the Bond Fund in accordance with the Indenture.

(b) The Company 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 Company, as the Agency, the Master Trustee or the Trustee deems reasonably necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of this Agreement and any rights of the Agency, the Master Trustee or the Trustee hereunder, under the Indenture or under any other Security Document or under any Master Trust Document.

Section 8.22. Continuing Disclosure. The Company shall, if required by Securities and Exchange Commission Rule 15c2-12(b)(5), enter into and comply with and carry out, or cause the Group Representative to enter into, comply with and carry out, all of the provisions of a continuing disclosure agreement. Notwithstanding any other provision of this Agreement, failure of the Obligated Group to comply with such continuing disclosure agreement shall not be considered an Event of Default; however, the Trustee may (and, at the request of any participating underwriter or the Holders of at least twenty-five percent (25%) aggregate principal amount in Outstanding Bonds, shall, upon receipt of reasonable indemnification for its fees and costs acceptable to it), and any Holder or Beneficial Owner may, take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Obligated Group to comply with their obligations under this Section 8.22. The Company agrees that the Agency shall have no continuing disclosure obligations.

Section 8.23. Tax Regulatory Agreement.

(a) The Company shall comply with all of the terms, provisions and conditions set forth in the Tax Regulatory Agreement, including, without limitation, the making of any payments and filings required thereunder.

(b) Promptly following receipt of notice from the Master Trustee as provided in the Master Trust Indenture and the Tax Regulatory Agreement that the amount on deposit in the allocable account in the Rebate Fund is less than the Rebate Amount, the Company shall deliver the amount necessary to make up such deficiency to the Master Trustee for deposit in the allocable account of the Rebate Fund.

(c) The Company further agrees to pay or cause to be paid all amounts payable by it in connection with compliance with Section 148 of the Code, including any expenses of the Agency incurred in connection with rebate compliance pursuant to the Tax Regulatory Agreement, the Indenture and the Master Trust Indenture at the time and in the manner therein provided.

(d) The Company will make such use of the proceeds of the Initial Bonds and all other funds held by the Trustee under the Indenture or otherwise allocable to the Initial Bonds, restrict the investment of such proceeds and other funds, and take such other and further action as may be required so that the Initial Bonds will not constitute "arbitrage bonds" under Section 148(a) of the Code and the regulations. In particular, but without limitation, The Company agrees to instruct the Trustee with respect to investments in accordance with Section 5.08 of the Indenture. The Company agrees to pay all of the fees and expenses of a nationally recognized bond counsel, a certified public accountant and any other necessary consultant employed by the Company, the Agency or the Master Trustee in connection with any of the requirements imposed by Sections 5.05 or 5.06 of the Indenture.

(e) The Company agrees to comply with the requirements of Section 148 of the Code as provided in the Master Trust Indenture.

(f) The Company further agrees to provide to the Trustee and the Master Trustee, at such time as required by the Trustee or the Master Trustee and as otherwise required by the Master Trust Indenture and the Tax Regulatory Agreement, all information reasonably required by the Trustee or the Master Trustee with respect to Nonpurpose Investments (as defined in the Tax Regulatory Agreement) held under the Indenture or otherwise.

(g) The Company represents, warrants, covenants and agrees that the average maturity of the Initial Bonds, taking into account the issue price of the various maturities of the Initial Bonds, will not exceed 120 percent of the reasonably expected economic life of the Facilities, taking into account the respective cost of each item composing the Facilities. For purposes of the preceding sentence, the reasonably expected economic life of the Facilities shall be determined as the date on which the Facilities were placed in service. In addition, land shall not be taken into account in determining the reasonably expected economic life of the Facilities.

(h) The Company covenants and agrees not to take any action, or knowingly omit to take any action within its control, that, if taken or omitted, respectively, would cause the Initial Bonds to be "federally guaranteed" within the meaning of section 149(b) of the Code and applicable regulations thereunder, except as permitted by section 149(b)(3) of the Code and such regulations.

(i) The Company hereby elects not to claim depreciation or an investment credit for federal income tax purposes with respect to any portion of the Facilities (or any other property financed with the proceeds of the Series 2001A Bonds). The Company will take all actions necessary to make this election binding on all its successors in interest under the Ground Leases. This election shall be irrevocable. Furthermore, the Company covenants that no portion of the Facilities (or any other property financed with the proceeds of the Series 2001A Bonds) which is subject to the Mortgage will be removed by the Company upon the termination of either or both of the Ground Leases.

Section 8.24. Compliance with the Indenture and the Master Trust Indenture. (a) The Company will comply with the provisions of the Indenture with respect to the Company. The Trustee shall have the power, authority, rights and protections provided in the Indenture. The Company will use its best efforts to cause there to be obtained for the Agency any documents or opinions of counsel required of the Agency under the Indenture. The Company further agrees to fund, replenish and maintain all amounts required to be funded, replenished and maintained in the Funds and Accounts established in and as required by Article V of the Indenture.

(b) The Company covenants and agrees that, during the term of this Agreement, it will at all times comply in all material respects with the requirements of the Master Trust Indenture.

Section 8.25. Reporting Information for the Trustee.

(a) The Company shall furnish or cause to be furnished the financial reports required by Section 6.10 of the Master Trust Indenture to the Trustee. The Trustee shall have no responsibility to review any such statements submitted to it.

(b) The Company shall deliver to the Trustee with each delivery of the annual financial reports required by Section 8.25(a), (i) a certificate of an Authorized Representative of the Company as to whether or not, as of the close of the preceding Fiscal Year, and at all times during such Fiscal Year, the Company was in compliance with all the provisions which relate to the Company in this Agreement and in any other Project Document to which it shall be a party, and as to whether or not a Determination of Taxability has occurred, and if such Authorized Representative shall have obtained knowledge of any default in such compliance or notice of such default or Determination of Taxability, 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 Company with respect thereto, and (ii) a certificate of an Authorized Representative of the Company that the insurance it maintains complies with the provisions of the Ground Leases, the Master Trust Indenture and Section 8.1 of this Agreement, that such insurance has been in full force and effect at all times during the preceding Fiscal Year, and that duplicate copies of all policies or certificates thereof have been filed with the Agency and the Trustee and are in full force and effect. In addition, upon twenty (20) days prior request by the Trustee, the Company will execute, acknowledge and deliver to the Agency and the Trustee a certificate of an Authorized Representative of the Company either stating that to the knowledge of such Authorized Representative after due

inquiry no default or breach exists hereunder or specifying each such default or breach of which such Authorized Representative has knowledge.

(c) The Company shall immediately notify the Trustee 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. Any notice required to be given pursuant to this subsection shall be signed by an Authorized Representative of the Company 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 Company shall state this fact on the notice.

(d) The Company shall deliver to the Trustee all insurance-related documents required by Sections 8.1(f)(i), 8.1(f)(ii), 8.1(f)(iii) and 8.1(g).

Section 8.26. Contracts with Affiliates. The Company shall not enter into any contract or transaction with any Affiliate of the Company, including, without limitation, any Facility Lease, except upon such terms as are customarily acceptable to a bona fide third party in an arms'-length transaction.

Section 8.27. Business of Company. The Company shall engage in no business or enterprise other than (i) the leasing, operation, maintenance, repair, restoration, improvement and management of the Facilities, (ii) the performance of its obligations under the Ground Leases and all other Project Documents to which it is a party, and all other agreements relating to the Facilities and their financing, leasing, maintenance and operation, and (iii) activities in furtherance thereof or ancillary or reasonably related thereto.

Section 8.28. Use of Bond Proceeds. The Company shall use, or permit or suffer to be used, the proceeds of the Bonds only for the purposes and costs permitted therefor under this Agreement, the Indenture and the Tax Regulatory Agreement.

Section 8.29. No Material Impairment of Value. The Company shall not take any action that would have a Material Adverse Effect upon the value or utility of the Facilities as intended for the purposes of this Agreement or the Gross Revenues to be derived from the operation of the Facilities.

Section 8.30. Certain Covenants with Respect to the Ground Leases. (a) The Company shall not enter into a Ground Lease Modification (as defined in Section 9.5 of the Master Trust Indenture) except to the extent permitted under the Master Trust Indenture. At least ten (10) days prior to the execution by the Company of any such Ground Lease Modification, the Company shall deliver a copy of same in substantially final form to each of the Agency, the Master Trustee and the Trustee. Promptly upon the execution thereof, the Company shall furnish certified copies of such Ground Lease Modification to the Agency, the Master Trustee and the Trustee.

(b) The Company shall immediately transmit to each of the Agency, the Master Trustee and the Trustee (y) notice of any default by the Company under either of the Ground Leases including a full description of the nature of the default and the amount or act

necessary to cure the same, and (z) copies of any termination or default notice it shall receive or deliver under either of the Ground Leases.

Section 8.31. Certain Covenants with Respect to the Facility Leases. (a) At least ten (10) days prior to the execution by the Company of any amendment, supplement or modification to any of the Facility Leases, the Company shall deliver a copy of same in substantially final form to each of the Agency, the Master Trustee and the Trustee. Promptly upon the execution thereof, the Company shall furnish certified copies of such amendment, supplement or modification to the Agency, the Master Trustee and the Trustee.

(b) The Company shall immediately transmit to each of the Agency, the Master Trustee and the Trustee copies of any termination or default notice it shall receive or deliver under any Facility Lease.

Section 8.32. Certain Acknowledgments. The Agency and the Company hereby acknowledge and agree that the leasehold estate of the Company Sublease in the Facilities is subject in all respects to the terms of the Basic Lease, the Ground Leases, the Consent and the Mortgage.

Section 8.33. Waiver of Defenses. The Company covenants and agrees, for the benefit of the Agency, the Trustee, the Master Trustee and the Holders of the Bonds, not to assert that any inconsistency between the terms, covenants, conditions and provisions of the Ground Leases with either the Mortgage or any of the Security Documents or any of the Master Trust Documents shall have the effect of modifying, releasing, impairing or otherwise limiting any of the obligations, covenants and agreements of the Company under the Mortgage or under any of the other Security Documents or under any of the Master Trust Documents.

Section 8.34. Obligation to Maximize Use of Facilities. The Company covenants and agrees to use its best efforts to keep each Facility fully occupied by Facility Tenants under Facility Leases.

Section 8.35. Permitted Indebtedness. Any Indebtedness incurred or assumed by the Company may be incurred or assumed only as permitted by the Master Trust Indenture.

Section 8.36. Sale or other Disposition of Facilities. The Company shall not sell, transfer, assign or otherwise dispose of any of the Facilities or any interest therein except in compliance with the terms and conditions of the Master Trust Indenture and this Agreement.

ARTICLE IX

REMEDIES AND EVENTS OF DEFAULT

Section 9.1. Events of Default. Any one or more of the following events shall constitute an "Event of Default" hereunder:

(a) Failure of the Company to pay or cause to be paid any installment purchase payment that has become due and payable by the terms of Section 4.3(a)(i) or (e) which results in an Event of Default under the Indenture;

(b) Failure of the Company to pay or cause to be paid any amount (except as set forth Section 7.1(a) hereof) that has become due and payable or to observe and perform any covenant, condition or agreement on its part to be performed under Sections 5.1, 5.2, 5.3, 5.4, 8.1, 8.2, 8.3, 8.9, 8.11, 8.13, 8.17, 8.18, 8.20, 8.23, 8.24, 8.25, 8.29, 8.30, 8.35, 8.36, 9.7, 11.2 or 11.3 or Article VI and continuance of such failure for more than thirty (30) days after written notice of such failure has been given to the Company specifying the nature of such failure by the Agency or the Trustee or the Holders of more than twenty-five per cent (25%) in aggregate principal amount of the Bonds Outstanding;

(c) Failure of the Company to observe and perform any covenant, condition or agreement hereunder on its part to be performed (except as set forth in Section 9.1(a) or (b)) and (i) continuance of such failure for more than thirty (30) days after written notice of such failure has been given to the Company specifying the nature of same by the Agency or the Trustee or the Holders of more than twenty-five per cent (25%) in aggregate principal amount of the Bonds Outstanding, or (ii) if by reason of the nature of such failure the same can be remedied, but not within the said thirty (30) days, the Company fails to commence and thereafter proceed with reasonable diligence after receipt of said notice to cure such failure or fails to continue with reasonable diligence its efforts to cure such failure or fails to cure such failure within sixty (60) days of delivery of said notice;

(d) The Company 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 Company, 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 Company or of all or

any substantial part of its 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 Company shall be entered in an involuntary case under such Bankruptcy Code; the terms "dissolution" or "liquidation" of the Company as used above shall not be construed to prohibit any action otherwise permitted by Section 8.20 or Section 3.6 of the Guaranty Agreement;

(f) Any representation or warranty made by the Company (i) in the application and related materials submitted to the Agency or the initial purchaser(s) of the Bonds for approval of the Project or its financing, or (ii) herein or in any other Project Document, or (iii) in the Letter of Representation and Indemnity Agreement dated the Closing Date and delivered to the Agency, the Trustee and the initial purchaser(s) of the Initial Bonds, or (iv) in the Tax Regulatory Agreement, or (v) by or on behalf of the Company or any other Person in any Required Disclosure Statement, or (vi) 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;

(g) The commencement of proceedings to appoint a receiver or to foreclose any mortgage lien on or security interest in the Facilities including the Mortgage;

(h) An "Event of Default" under the Indenture or under any other Security Document or under any Master Trust Document shall occur and be continuing; or

(i) Failure of the Company to pay the amount required of it under Section 4.3(a)(ii) when required thereunder.

Section 9.2. Remedies on Default. (a) Whenever any Event of Default referred to in Section 9.1 shall have occurred and be continuing, the Agency, or the Trustee where so provided, may, take any one or more of the following remedial steps:

(i) the Trustee, as and to the extent provided in Article VIII of the Indenture, may cause all principal installments of installment purchase payments payable under Section 4.3(a) for the remainder of the term of this Agreement, together with the principal balance of the Initial Bonds Master Note, to be immediately due and payable, whereupon each of the same, together with the accrued interest thereon, shall become immediately due and payable; provided, however, that upon the occurrence of an Event of Default under Section 9.1(d) or (e), all principal installments of installment purchase payments payable under Section 4.3(a) for the remainder of the term of this Agreement, together with the principal balance of the Initial Bonds Master Note, as well as the accrued interest on each, shall immediately become due and payable without any declaration, notice or other action of the Agency, the Trustee, the Master Trustee, the Holders of the Bonds or any other Person being a condition to such acceleration;

(ii) the Agency, with the prior written consent of the Trustee, or the Trustee, may terminate this Agreement, in which case this Agreement and all of the

estate, right, title and interest herein granted or vested in the Company shall cease and terminate. No such termination of this Agreement shall relieve the Company of its liability and obligations hereunder and such liability and obligations shall survive any such termination;

(iii) the Agency or the Trustee may take whatever action at law or in equity as may appear necessary or desirable to collect the installment purchase payments then due and thereafter to become due, or to enforce performance or observance of any obligations, agreements or covenants of the Company under this Agreement; and

(iv) the Trustee may take any action permitted under the Indenture with respect to an Event of Default thereunder.

(b) Upon the occurrence of a default with respect to any of the Agency's Reserved Rights, the Agency, without the consent of the Trustee, the Master Trustee or any other Person, may proceed to enforce the Agency's Reserved Rights by

(i) bringing an action for damages, injunction or specific performance,

(ii) taking whatever action at law or in equity as may appear necessary or desirable to collect payment of amounts due by the Company under the Agency's Reserved Rights or to enforce the performance or observance of any obligations, covenants or agreements of the Company under the Agency's Reserved Rights, and/or

(iii) demanding payment of NPV-PILOMRT due under Section 5.3 as if the date of demand by the Agency shall be the Expiration Date.

(c) No action taken pursuant to this Section 9.2 (including termination of this Agreement) or by operation of law or otherwise shall, except as expressly provided herein, relieve the Company from the Company's obligations hereunder, all of which shall survive any such action.

Section 9.3. Reletting of Facilities. If the right of the Company to the occupancy, use and possession of the Facilities shall be terminated in any way, the Master Trustee may lease the same or any part thereof for the account and benefit of the Company for such rental terms to such Persons and for such period or periods as may be fixed and determined by the Master Trustee, but the Master Trustee shall not unreasonably refuse to accept or receive any suitable occupant or tenant offered by the Company; provided that such letting shall not adversely affect the tax exempt status of the Bonds. Neither the Agency, the Master Trustee nor the Trustee shall otherwise be required to do any act whatsoever or exercise any diligence whatsoever to mitigate the damages to the Company, and if a sufficient sum shall not be received from any letting to satisfy the installment purchase payments hereby agreed to be made by the Company, after paying the expenses of letting and collection, then the Company hereby agrees to pay and satisfy any such deficiency if, as and when the same exists. Any excess rentals from any such reletting shall be credited to any installment purchase payments due or to become due by the Company.

Section 9.4. Remedies Cumulative. The rights and remedies of the Agency, the Master Trustee or the Trustee under this Agreement or any other Security Document or Master Trust Document shall be cumulative and shall not exclude any other rights and remedies of the Agency, the Master Trustee or the Trustee allowed by law with respect to any default under this Agreement. Failure by the Agency, the Master Trustee or the Trustee 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 Company 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 the strict compliance by the Company with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such default by the Company be continued or repeated, or of the right to recover possession of the Facilities by reason thereof.

Section 9.5. 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/or the Master Trustee and/or the Trustee and the Company or any delay or omission on the part of the Agency and/or the Master Trustee and/or the Trustee in exercising any rights hereunder or under the Indenture or under any other Security Document or Master Trust Document shall operate as a waiver. To the extent permitted by applicable law, the Company hereby waives the benefit and advantage of, and covenants not to assert against the Agency, the Master Trustee or the Trustee, any valuation, inquisition, stay, appraisalment, extension or redemption laws now existing or which may hereafter exist which, but for this provision, might be applicable to any sale or letting made under the judgment, order or decree of any court or under the powers of sale and letting conferred by this Agreement or otherwise.

Section 9.6. Effect on Discontinuance of Proceedings. In case any proceeding taken by the Agency, the Master Trustee or the Trustee under the Indenture or this Agreement or under any other Security Document or Master Trust 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, the Master Trustee or the Trustee, then, and in every such case, the Agency, the Master Trustee, the Trustee and the Holders of the Bonds shall be restored, respectively, to their former positions and rights hereunder and thereunder, and all rights, remedies, powers and duties of the Agency, the Master Trustee and the Trustee shall continue as in effect prior to the commencement of such proceedings.

Section 9.7. Agreement to Pay Fees and Expenses of Attorneys and Other Consultants. In the event the Company should default under any of the provisions of this Agreement, and the Agency, the Master Trustee or the Trustee should employ outside attorneys or other consultants or incur other expenses for the collection of installment purchase payments or other amounts payable hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Company herein contained or contained in any other Security Document or any Master Trust Document, the Company agrees that it will on demand therefor pay to the Agency, the Master Trustee or the Trustee, as the case may be, the reasonable

fees and disbursements of such attorneys or other consultants and such other expenses so incurred.

Section 9.8. Certain Continuing Representations. If at any time during the term of this Agreement, any representation or warranty made by the Company pursuant to Section 2.2(dd) would, if made on any date during the term of this Agreement and deemed made as of such date, be false, misleading or incorrect in any material respect, then, the Company shall be deemed to be in default under this Agreement unless the Agency shall, upon written request by the Company, either waive such default in writing or consent in writing to an exception to such representation or warranty so that such representation or warranty shall no longer be false, misleading or incorrect in a material respect. Upon the occurrence of any such default, the Agency shall have the right to require the redemption of the Bonds in accordance with Section 11.3(a) hereof.

Section 9.9. Late Delivery Fees.

(a) In the event the Company shall fail:

(i) to pay the Annual Administrative Fee on the date required under Section 8.3,

(ii) to file and/or deliver any of the documents required of the Company under Section 8.14 or Section 8.16 by the date therein stated (collectively, the "**Fixed Date Deliverables**"), or

(iii) to deliver to the Agency any of the documents as shall have been requested by the Agency of the Company under Section 8.15 within five (5) Business Days of the date so requested (collectively, the "**Requested Document Deliverables**"),

then the Agency may charge the Company on a daily calendar basis commencing with the day immediately following the date on which the payment, filing or delivery was due (the "**Due Date**"), the Per Diem Late Fee.

(b) If the Agency shall deliver written notice (a "**Notification of Failure to Deliver**") to the Company of such failure to deliver on the Due Date the Annual Administrative Fee, a Fixed Date Deliverable and/or a Requested Document Deliverable, and such payment or document shall not be delivered to the Agency within ten (10) Business Days following delivery by the Agency to the Company of the Notification of Failure to Deliver, then, commencing from and including the eleventh (11th) Business Day following the delivery by the Agency to the Company of the Notification of Failure to Deliver, the Agency may charge the Company on a daily calendar basis the Per Diem Supplemental Late Fee in respect of each noticed failure which shall be in addition to, and be imposed concurrently with, the applicable Per Diem Late Fee.

(c) The Per Diem Late Fee and the Per Diem Supplemental Late Fee shall each, if charged by the Agency, (i) accrue until the Company delivers to the Agency the Annual Administrative Fee, the Fixed Date Deliverable(s) and/or the Requested Document Deliverable(s), as the case may be, and (ii) be incurred on a daily basis for each such Annual

Administrative Fee, Fixed Date Deliverable and/or Requested Document Deliverable as shall not have been delivered to the Agency on the Due Date.

(d) No default on the part of the Company under Section 8.3, 8.14, 8.15 or 8.16 to deliver to the Agency an Annual Administrative Fee, a Fixed Date Deliverable or a Requested Document Deliverable shall be deemed cured unless the Company shall have delivered same to the Agency and paid to the Agency all accrued and unpaid Per Diem Fees in connection with the default.

Section 9.10. Bankruptcy Proceedings. In case proceedings shall be pending for the bankruptcy or for the reorganization of the Company under the federal bankruptcy laws or any other applicable law, or in case a receiver or trustee (other than the Trustee under the Indenture or the Master Trustee under the Master Trust Indenture) shall have been appointed for the property of the Company or in the case of any other similar judicial proceedings relative to the Company or the creditors or property of the Company, then the Trustee shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount owing and unpaid pursuant to this Agreement, irrespective of whether the principal of the Bonds (and the Initial Bonds Master Note and the installment purchase payments payable pursuant to Section 4.3 of this Agreement) shall have been accelerated by declaration or otherwise, and irrespective of whether the Trustee shall have made any demand for payment hereunder or thereunder, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee allowed in such judicial proceedings relative to the Company, its creditors or its property, and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute such amounts as provided in the Indenture and the Master Trust Indenture after the deduction of its charges and expenses. Any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized to make such payments to the Trustee, and to pay to the Trustee any amount due it for compensation and expenses, including expenses and fees of counsel incurred by it up to the date of such distribution.

ARTICLE X

OPTIONS TO TERMINATE

Section 10.1. Termination of the Company Sublease and this Agreement.

(a) The Company shall have the option to terminate the Company Sublease and this Agreement by causing the redemption or defeasance in whole of all Outstanding Bonds in accordance with the terms set forth in the Indenture.

(b) (i) After full payment of the Bonds or provision for the payment in full thereof having been made in accordance with Article X of the Indenture, but not later than the receipt by the Company of ten (10) days prior written notice from the Agency directing termination of this Agreement, the Company shall terminate the Company Sublease and this Agreement by giving the Agency notice in writing of such termination and thereupon such termination shall forthwith become effective, subject, however, to (x) the delivery of those documents referred to in Section 10.2, and (y) the survival of those obligations of the Company set forth in Section 10.3.

(ii) In the event the Company does not terminate the Company Sublease and this Agreement (including taking all actions required to be taken by the Company pursuant to Sections 10.1(b)(i) and 10.2 within such ten (10) day period), then, commencing on the eleventh (11th) day after transmittal of the notice directing termination as provided in Section 10.1(b)(i), the Company shall, in addition to all other payment obligations due to the Agency hereunder, make payments to the Agency in the amount of the Per Diem Holdover Amount until the Company shall have terminated the Company Sublease and this Agreement in accordance with the provisions thereof and hereof.

(c) The Company shall not, at any time, assign or transfer its option to terminate this Agreement as contained in this Section 10.1 separate and apart from a permitted assignment of this Agreement pursuant to Section 8.9, without the prior written consents of the Agency, the Master Trustee and the Trustee.

Section 10.2. Actions on Termination. (a) As a condition precedent to the termination of the Company Sublease and this Agreement, the Company shall

(i) pay to the Trustee and/or the Master Trustee, as applicable,

(A) the expenses of redemption, the fees and expenses of the Trustee, the Master Trustee, the Bond Registrar and the Paying Agents and all other amounts due and payable under this Agreement and the other Security Documents;

(B) any amounts required to be rebated to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement; and

(ii) pay to the Agency

(A) the fees and expenses of the Agency,

(B) all other amounts due and payable under this Agreement and the other Security Documents, and

(C) one dollar.

(iii) perform all accrued obligations hereunder or under any other Project Document, and

(iv) deliver or cause to be delivered to the Agency (x) with respect to any Exempt Mortgage, an executed satisfaction of such mortgage in recordable form, executed by the mortgagee, and (y) with respect to any mortgage on the Facilities not constituting an Exempt Mortgage but to which the Agency shall be a party and which is intended to continue beyond the termination of this Agreement, a release of the Agency from such mortgage in recordable form executed by all other parties to such mortgage.

(b) Upon the termination of the Company Sublease and this Agreement in accordance with Section 10.1 hereof, the Agency will deliver or cause to be delivered, at the sole cost and expense of the Company, to the Company (i) a termination of the Company Sublease and this Agreement in recordable form, and (ii) all necessary documents releasing all of the Agency's rights and interests in and to any rights of action under this Agreement (other than as against the Company or any insurer of the insurance policies under Section 8.1), or any insurance proceeds (other than liability insurance proceeds for the benefit of the Agency) or condemnation awards, with respect to the Facilities or any portion thereof. Concurrently with the delivery of such instruments, there shall be delivered by the Agency (at the sole cost and expense of the Company) to the Trustee any instructions or other instruments required by Article X of the Indenture to defease and pay the Outstanding Bonds, together with a direction to the Trustee that the Trustee deliver to the Agency and the Company a release, satisfaction or termination of the Indenture.

Section 10.3. Survival of Company Obligations. Upon release of the Agency's interest in the Facilities pursuant to Section 10.2, this Agreement and all obligations of the Company hereunder shall be terminated except the obligations of the Company under Sections 5.3, 5.4, 8.2, 8.23, 9.2, 9.3, 9.7, 9.9, 12.4, 12.5, 12.6, 12.11, 12.13 and 12.14 shall survive such termination.

ARTICLE XI

CERTAIN PROVISIONS RELATING TO THE BONDS

Section 11.1. Issuance of Additional Bonds. If a Series of Additional Bonds are to be issued pursuant to the Indenture, the Agency and the Company shall enter into an amendment to this Agreement providing, among other things, for the payment by the Company of such additional installment purchase payments as are necessary in order to amortize in full the principal of and interest on such Series of Additional Bonds and any other costs in connection therewith.

Any such repair, relocation, replacement, rebuilding, restoration, additions, extensions or improvements shall become a part of the Facility and shall be included under this Agreement to the same extent as if originally included hereunder.

Section 11.2. Determination of Taxability. Upon the occurrence of a Determination of Taxability, the Company shall deliver to the Trustee a certificate of an Authorized Representative, at least ten (10) days before the Trustee is to deliver the notice of redemption pursuant to Section 6.03 of the Indenture, specifying the event giving rise to the Determination of Taxability and the dates which are the Tax Incidence Date and the date of the Determination of Taxability. The Company shall pay to the Trustee, as provided in Section 2.03(f) of the Indenture, an amount sufficient, when added to the amounts then in the Bond Fund and available for such purpose, to retire and redeem all Bonds then Outstanding, in accordance with the Indenture.

Section 11.3. Mandatory Redemption of Bonds as Directed by the Agency.
(a) Upon the determination by the Agency that (w) the Company is operating either or both of the Facilities or any portion of either thereof, or is allowing either or both of the Facilities or any portion of either thereof to be operated, not as a qualified "project" in accordance with the Act and the failure of the Company within thirty (30) days of the receipt by the Company of written notice of such noncompliance from the Agency to cure such noncompliance together with a copy of such resolution (a copy of which notice shall be sent to the Trustee), (x) the Company, any Principal of the Company or any Person that directly or indirectly Controls, is Controlled by or is under common Control with the Company has committed a material violation of a material Legal Requirement and the failure of the Company within thirty (30) days of the receipt by the Company of written notice of such determination from the Agency to cure such material violation (which cure, in the case of a Principal who shall have committed the material violation of a material Legal Requirement, may be effected by the removal of such Principal), (y) as set forth in Section 9.8, any Conduct Representation is false, misleading or incorrect in any material respect at any date, as if made on such date, or (z) a Required Disclosure Statement delivered to the Agency under any Project Document is not acceptable to the Agency acting in its sole discretion, the Company covenants and agrees that it shall, no later than ten (10) days following the termination of such thirty (30) day period, pay to the Trustee advance installment purchase payments in immediately available funds in an amount sufficient to redeem the Bonds Outstanding in whole at the Redemption Price of 100% of the aggregate principal amount of the Outstanding Bonds together with interest accrued thereon to the redemption date. The Agency shall give prior written notice of the meeting at which the Board of Directors of the Agency are

to consider such resolution to the Company and the Trustee, which notice shall be no less than fifteen (15) days prior to such meeting.

(b) In the event the Company fails to obtain or maintain the public liability insurance with respect to the Facilities required under Section 8.1, and the Company shall fail to cure such circumstance within ten (10) days of the receipt by the Company of written notice of such noncompliance from the Agency and a demand by the Agency on the Company to cure such noncompliance, upon notice or waiver of notice as provided in the Indenture, the Company shall pay to the Trustee advance installment purchase payments in immediately available funds in an amount sufficient to redeem the Bonds Outstanding in whole at the Redemption Price of one hundred percent (100%) of the unpaid principal amount of the Bonds, together with interest accrued thereon to the date of redemption.

Section 11.4. Right to Cure Agency Defaults. The Agency hereby grants the Company full authority for account of the Agency to perform any covenant or obligation the non-performance of which is alleged to constitute a default in any notice received by the Company, in the name and stead of the Agency, with full power of substitution.

Section 11.5. Option to Purchase or Invite Tenders of Bonds. The Company shall have the option, at any time during the term of this Agreement, to purchase Bonds for its own account, whether by direct negotiation, through a broker or dealer, or by making a tender offer to the Holders thereof. The Bonds so purchased by the Company shall be delivered to the Trustee for cancellation within thirty (30) days of the date of purchase.

Section 11.6. Investment of Funds. Any moneys held as part of the Rebate Fund, the Earnings Fund, the Project Fund, the Bond Fund or the Debt Service Reserve Fund or in any special fund provided for in this Agreement or in the Indenture to be invested in the same manner as in any said Fund shall, at the written request of an Authorized Representative of the Company, be invested and reinvested by the Trustee as provided in the Indenture (but subject to the provisions of the Tax Regulatory Agreement). Neither the Agency nor the Trustee nor any of their members, directors, officers, agents, servants or employees shall be liable for any depreciation in the value of any such investments or for any loss arising therefrom.

Interest and profit derived from such investments shall be credited and applied as provided in the Indenture, and any loss resulting from such investments shall be similarly charged.

Section 11.7. Mandatory Redemption of Bonds Upon Sale of Ground Lease. In the event the Company sells, transfers or otherwise conveys or disposes of its interest in one or both of the Ground Leases, the Company shall immediately deliver written notice of same to the Agency, the Trustee and the Master Trustee, deliver to such Persons the Confirmation of Rating and Opinion of Nationally Recognized Bond Counsel as described in Section 2.03(g) of the Indenture of the extent required thereunder in the case of a partial redemption, and shall pay to the Trustee advance installment purchase payments in immediately available funds in an amount sufficient to redeem the Bonds Outstanding in whole or in part as required under Section 2.03(g) of the Indenture at the applicable Redemption Price, together with interest accrued thereon to the date of redemption.

ARTICLE XII

MISCELLANEOUS

Section 12.1. 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 (i) the obligations of the Company to make the installment purchase payments or other payments required under the terms hereof, or (ii) the obligations of the Company to comply with Sections 5.4, 8.1 or 8.2), 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*" 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, war, terrorism, 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. Notwithstanding anything to the contrary herein, in no event shall the Company's financial condition or inability to obtain financing constitute a *force majeure*. 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 Company shall promptly notify the Agency and the Trustee upon the occurrence of each *force majeure*, describing such *force majeure* and its effects in reasonable detail. The Company shall also promptly notify the Agency and the Trustee upon the termination of each such *force majeure*. The information set forth in any such notice shall not be binding upon the Agency or the Trustee, and the Agency or the Trustee shall be entitled to dispute the existence of any *force majeure* and any of the contentions contained in any such notice received from the Company.

Section 12.2. Priority of Indenture and Mortgage. Pursuant to the Mortgage, the Company and the Agency will mortgage their respective interests in the Facilities to the Master Trustee as security for the Obligations under the Master Trust Indenture. Pursuant to the Indenture, the Agency will pledge and assign the installment purchase payments and certain other moneys receivable under this Agreement to the Trustee as security for payment of the principal or Redemption Price, if applicable, of, Sinking Fund Installments for, and interest on the Bonds. This Agreement shall be subject and subordinate to the Mortgage and the Indenture and such mortgage liens, security interests, pledges and assignments thereunder.

Section 12.3. Amendments. This Agreement may be amended only with the concurring written consent of the Trustee given in accordance with the provisions of the Indenture and only by a written instrument executed by the parties hereto.

Section 12.4. Service of Process. The Company represents that it is subject to service of process in the State and covenants that it will remain so subject until all obligations, covenants and agreements of the Company under this Agreement shall be satisfied and met. If for any reason the Company should cease to be so subject to service of process in the State, the Company hereby irrevocably consents to the service of all process, pleadings, notices or other papers in any judicial proceeding or action by designating and appointing the Company's Chief Executive Officer, at 201 West Street, Annapolis, Maryland 21401, the Company's President at 201 West Street, Annapolis, Maryland 21401, and/or the General Counsel of the Company at 201 West Street, Annapolis, Maryland 21401, as its agent upon whom may be served all process, pleadings, notices or other papers which may be served upon the Company as a result of any of its obligations under this Agreement. If such appointed agent shall cease to act or otherwise cease to be subject to service of process in the State, the Company hereby irrevocably designates and appoints the Secretary of State of the State of New York as its agent upon whom may be served all process, pleadings, notices or other papers which may be served upon the Company as a result of any of its obligations under this Agreement; provided, however, that the service of such process, pleadings, notices or other papers shall not constitute a condition to the Company's obligations hereunder.

For such time as any of the obligations, covenants and agreements of the Company under this Agreement remain unsatisfied, the Company's agent(s) designated in this Section 12.4 shall accept and acknowledge on the Company's behalf each service of process in any such suit, action or proceeding brought in any such court. The Company agrees and consents that each such service of process upon such agents and written notice of such service to the Company in the manner set forth in Section 12.5 shall be taken and held to be valid personal service upon the Company whether or not the Company shall then be doing, or at any time shall have done, business within the State and that each such service of process shall be of the same force and validity as if service were made upon the Company according to the laws governing the validity and requirements of such service in the State, and waives all claim of error by reason of any such service.

Such agents shall not have any power or authority to enter into any appearance or to file any pleadings in connection with any suit, action or other legal proceedings against the Company or to conduct the defense of any such suit, action or any other legal proceeding except as expressly authorized by the Company.

Section 12.5. Notices. All notices, certificates or other communications hereunder shall be sufficient if sent (i) by registered or certified United States mail, return receipt requested and postage prepaid, (ii) by a nationally recognized overnight delivery service for overnight delivery, charges prepaid or (iii) by hand delivery, addressed, as follows:

- (1) if to the Agency, to

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

- (2) if to the Company, to

Aero JFK, LLC
c/o Aeroterm US, Inc.
201 West Street, Suite 200
Annapolis, Maryland 21401
Attention: John Cammett

and

Aero JFK, LLC
c/o Aeroterm US, Inc.
800 Stuart Graham South, Suite 315
Dorval, QC H4Y 1J6
Attention: Neil Frankel

- (3) if to the Trustee, to

The Bank of New York Mellon
101 Barclay Street, Floor 7W
New York, New York 10286
Attention: Corporate Trust Administration

- (4) if to the Master Trustee, to

Wells Fargo Bank, National Association
230 West Monroe Street, Suite 2900
Chicago, Illinois 60606
Attention: Corporate Trust

The Agency, the Company, the Trustee and the Master Trustee 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 delivered or given (i) three (3) Business Days following posting if transmitted by mail, (ii) one (1) Business Day following sending if transmitted for overnight delivery by a nationally recognized overnight delivery service, or (iii) upon delivery if given by hand delivery, with refusal by an Authorized Representative of the intended recipient party to accept delivery of a notice given as prescribed above to constitute delivery hereunder.

Section 12.6. Consent to Jurisdiction. The Company irrevocably and unconditionally (i) agrees that any suit, action or other legal proceeding arising out of this Agreement or any other Project Document, the Facilities, the Project, the relationship between the Agency and the Company, the Company's use or occupancy of the Facilities and/or any claim for injury or damages may be brought in the courts of record of the State in New York County or the United States District Court for the Southern District of New York; (ii) consents to the jurisdiction of each such court in any such suit, action or proceeding; (iii) waives any objection which it may have to the venue of any such suit, action or proceeding in such courts; and (iv) waives and relinquishes any rights it might otherwise have (w) to move to dismiss on grounds of forum non conveniens, (x) to remove to any federal court other than the United States District Court for the Southern District of New York, and (y) to move for a change of venue to a New York State Court outside New York County.

If the Company commences any action against the Agency, the Master Trustee or the Trustee in a court located other than the courts of record of the State in New York County or the United States District Court for the Southern District of New York, the Company shall, upon request from the Agency, the Master Trustee or the Trustee, either consent to a transfer of the action or proceeding to a court of record of the State in New York County or the United States District Court for the Southern District of New York, or, if the court where the action or proceeding is initially brought will not or cannot transfer the action, the Company shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of record of the State in New York County or the United States District Court for the Southern District of New York.

Section 12.7. 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 Company relating to the Facilities, other than the Company Lease or any other Project Document.

Section 12.8. Severability. If any one or more of the provisions of this Agreement shall be ruled illegal or invalid by any court of competent jurisdiction, the illegality or invalidity of such provision(s) shall not affect any of the remaining provisions hereof, but this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 12.9. Effective Date; Counterparts. 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 the Closing Date. This Agreement shall become effective upon its delivery on the Closing 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 12.10. Binding Effect. This Agreement shall inure to the benefit of the Agency, the Trustee, the Master Trustee, the Bond Registrar, the Paying Agents, the Indemnified Parties and the Holders of the Bonds, and shall be binding upon the Agency and the Company and their respective successors and assigns.

Section 12.11. Third Party Beneficiaries. (a) The Agency and the Company agree that this Agreement is executed in part to induce the purchase by others of the Bonds and for the further securing of the Bonds, and accordingly all covenants and agreements on the part of the Agency and the Company as set forth in this Agreement are hereby declared to be for the benefit of the Indemnified Parties (as defined in Section 8.2 hereof), the Master Trustee, the Trustee and the Holders from time to time of the Bonds and may be enforced as provided in Article VIII of the Indenture on behalf of the Bondholders by the Trustee.

(b) Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon, or to give to, any Person, other than the Agency, the Trustee, the Master Trustee, the Indemnified Parties, the Bond Registrar, the Company, the Paying Agents and the Holders of the Bonds any right, remedy or claim under or by reason of this Agreement or any covenant, condition or stipulation thereof. All the covenants, stipulations, promises and agreements herein contained by and on behalf of the Agency shall be for the sole and exclusive benefit of the Agency, the Trustee, the Master Trustee, the Indemnified Parties, the Bond Registrar, the Company, the Paying Agents and the Holders of the Bonds.

Section 12.12. Law Governing. This Agreement shall be governed by, and construed and enforced 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 12.13. Waiver of Trial by Jury. The Company does hereby expressly waive all rights to a trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this Agreement or any matters whatsoever arising out of or in any way connected with this Agreement, the Company's obligations hereunder, the Facilities, the Project, the relationship between the Agency and the Company, the Company's use or occupancy of the Facilities and/or any claim for injury or damages.

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.

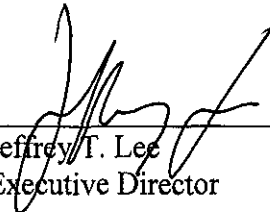
Section 12.14. Recourse Under This Agreement. All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency or any natural person executing this Agreement on behalf 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. No recourse shall be had for the payment of the principal of, redemption premium, if any, Sinking Fund Installments for, or interest on the Bonds or for any claim based thereon or hereunder against any member, director, officer, employee or agent of the Agency or any natural person executing the Bonds. 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 Company hereunder.

Section 12.15. Federal Tax Ownership. The Company acknowledges and agrees that, for purposes of satisfying Section 142(b) of the Code, the Company has relinquished its federal tax rights to depreciate its investment in the Facilities and similar tax ownership rights, and that the Port Authority is the federal tax owner of the Facilities for purposes of Section 142(b) of the Code. As such, the Company, in applying the proceeds of the Initial Bonds to refinance the cost of the Facilities is, for federal income tax purposes, taking such actions for the benefit of the Port Authority, and the Port Authority is receiving the benefit of such application.

Section 12.16. This Agreement is a Related Financing Document. This Agreement constitutes a “Related Financing Document”, for purposes of the Master Trust Indenture.

IN WITNESS WHEREOF, the Agency has caused its corporate name to be subscribed unto this Installment Sale Agreement by its duly authorized Chairman, Vice Chairman, Executive Director, Deputy Executive Director, General Counsel or Vice President for Legal Affairs and the Company 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**

By: 

Jeffrey T. Lee
Executive Director

AERO JFK, LLC

By: _____
Name:
Title:

IN WITNESS WHEREOF, the Agency has caused its corporate name to be subscribed unto this Installment Sale Agreement by its duly authorized Chairman, Vice Chairman, Executive Director, Deputy Executive Director, General Counsel or Vice President for Legal Affairs and the Company 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**

By: _____
Jeffrey T. Lee
Executive Director

AERO JFK, LLC

By: _____
Name: *TOMY LIN*
Title: *SVP*

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

On the 4 day of September in the year two thousand twelve, before me, the undersigned, personally appeared Jeffrey T. Lee, 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 upon behalf of which the individual acted, executed the instrument.



Notary Public/Commissioner of Deeds

FRANCES TUFANO
Notary Public, State of New York
No. 01TU5080131
Qualified in Queens County
Commission Expires June 16, 2015

ACKNOWLEDGMENT
California All-Purpose Acknowledgment

State of California))
County of San Mateo)) ss.

On September 4, 2012 before me, M. Cordon, Notary Public, personally appeared Tony P. Lin, who 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.

I certify under **PENALTY OF PERJURY** under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

M. Cordon
Signature of Notary Public



[]
thumbprint

Attached Loose Certificate, Acknowledgment for document:
Installment Sale Agreement and Assignment of Lease between
Aero JFK, LLC & NYC Industrial Development Agency 9/1/12

APPENDICES

DESCRIPTION OF TRACT 8 FACILITY IMPROVEMENTS

The Tract 8 Facility Improvements include a building containing approximately 176,557 square feet of cargo operations area and cargo support and shop areas, and approximately 53,406 square feet of administrative offices and customer service offices, and a three-level TV/ULD container storage module containing approximately 29,462 square feet, a ground service equipment maintenance building containing approximately 3,090 square feet, an aircraft apron area containing approximately 305,770 square feet, ground service equipment pavement area containing approximately 99,097 square feet and a customer and employee vehicular parking area containing approximately 306 automobile parking spaces.

DESCRIPTION OF TRACT 8 FACILITY PROJECT EQUIPMENT

Any and all machinery, equipment and other property all constituting fixtures and installed or used or usable in connection with the operation of the Tract 8 Facility, regardless of whether the cost of such equipment, or any part thereof, paid for or otherwise financed with the Bond proceeds. Such fixtures shall not include the personal property of any Facility Tenant.

The Tract 8 Facility Project Equipment shall include, but not be limited to, the following:

Scissors Lifts
Pallet Conveyors
Hydraulic Lifts
Transfer Vehicles
Pallet Storage Racks
ULD Storage Decks
Receiving Scales
Drive Over Scales
Cool Rooms
Ball Mats
Turntable with Right Angle Decks

Powered Roller Decks
Fixed Work Stations
Elevating Work Stations
Automatic Control System
Operator Panels
Truck Docks
Vertical Conveyor
Ram Protection
Right Angle Decks
Protective Barriers

Controls – Machine Level, PLC

Automated Control & Inventory System (ACIS)

DESCRIPTION OF THE TRACT 8 FACILITY SITE

The premises demised by an Amended and Restated Company Sublease Agreement dated as of 9/01/2012, made by and between Aero JFK LLC, a Delaware limited liability company and the New York City Industrial Development Agency, to be recorded in the Office of the Register of Queens County of the City of New York ("Recorder"), together with all renewals and extensions thereof (the "Company Lease"); which Company Lease being consented to in that certain Consent Agreement dated 9/01/2012, made by The Port Authority of New York and New Jersey, Aero JFK LLC, a Delaware limited liability company, 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 of New York (the NYC "IDA"); the Bank of New York Mellon Trust Company, National Association, as trustee under the Bond Indenture ("BNY Mellon"), and Wells Fargo Bank National Association, as Master Trustee, as evidenced by a memorandum of even date therewith to be recorded with the Recorder, described as follows:

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, bounded and described as follows:

ALL coordinates used herein refer to points on the final maps of the Borough of Queens, City of New York, Office of the President, Topographical Bureau. Such coordinates are based on a rectangular system having as an origin the east line of 10th Avenue, Manhattan, New York, projected 18,568.333 feet north of the south line of West 155th Street, Manhattan, New York, which origin point is located approximately at the northeast corner of West 225th Street and 10th Avenue, Manhattan, New York, and has the coordinates 40 degrees 52 minutes 33.479 seconds North, 73 degrees 54 minutes 39.028 West. The line of 10 Avenue is held as grid north, which is 28 degrees 59 minutes 13.5 seconds East of true north.

BEGINNING at a point at the northwest corner of the premises herein described, said beginning point having the coordinates values of South 57,385.983 and East 65,340.533.

RUNNING THENCE along the arc of a circle, the radius of which is 8,731.50 feet, the interior angle of which is 02 degrees 29 minutes 08.04 seconds and the center point of which has the coordinates South 50,031.197, East 70,046.508, an arc distance of 378.78 feet to a point which has the coordinates of South 57,583.151 and East 65,663.920;

RUNNING THENCE North 30 degrees 07 minutes 40 seconds East, 23.20 feet to a point which has the coordinates of South 57,563.087 and East 65,675.564;

RUNNING THENCE along the arc of a circle, the radius of which is 8,708.30 feet, the interior angle of which is 01 degrees 12 minutes 22.45 seconds and the center point of which has the coordinates south 50,031.197, east 70,046.508, an arc distance of 183.33 feet to a point which has the coordinates South 57,653.432 and East 65,835.088;

RUNNING THENCE South 28 degrees 55 minutes 17 seconds West, 23.20 feet to a point which has the coordinates of South 57,673.736 and East 65,823.869; RUNNING THENCE along the arc of a circle, the radius of which is 8,731.50 feet, the interior angle

of which is 02 degrees 3 minutes 03.38 seconds and center point of which has the coordinates South 50,031.197, East 70,046.508, an arc distance of 388.75 feet to a point which has the coordinates of South 57,854.102 and East 66,168.205;

RUNNING THENCE north 61 degrees 39 minutes 00 seconds east, 847.58 feet to a point which has the coordinates of south 57,451.626 and east 66,914.125;

RUNNING THENCE North 28 degrees 21 minutes 00 seconds West, 300.00 feet to a point which has the coordinates of south 57,187.608 and east 66,771.669;

RUNNING THENCE north 16 degrees 39 minutes 00 seconds east, 141.41 feet to a point which has the coordinates of South 57,052.127 and East 66,812.187;

RUNNING THENCE north 61 degrees 39 minutes 00 seconds East, 150.54 feet to a point which has the coordinates of South 56,980.641 and East 66,944.673;

RUNNING THENCE north 28 degrees 21 minutes 00 seconds West, 161.90 feet to a point which has the coordinates of south 56,838.158 and east 66,867.394;

RUNNING THENCE North 58 degrees 21 minutes 00 seconds West, 350.00 feet to a point which has the coordinates of South 56,654.503 and East 66,569.849;

RUNNING THENCE South 61 degrees 39 minutes 00 seconds West, 763.53 feet to a point which has the coordinates of South 57,017.72 and East 65,897.892;

RUNNING THENCE South 28 degrees 21 minutes 00 seconds East, 60.00 feet to a point which has the coordinates of South 57,069.876 and East 65,926.383;

RUNNING THENCE South 61 degrees 39 minutes 00 seconds West, 665.69 feet to the point or place of BEGINNING.

TOGETHER WITH the beneficial rights and easements granted in favor of AIRIS JFK I, LLC under Agreement of Lease dated as of November 15, 2000 and identified as Lease No. AYD-037 between the Port Authority of New York and New Jersey, as lessor and AIRIS JFK I, LLC, as lessee, including (i) easements for ingress and access over the taxilane serving the Tract 8 site ("Taxilane") and (ii) an easement of ingress, egress and access between the Tract 8 site and Taxiway B ("Tract 8 Access Easement"). The location of the easements with respect to the Taxilane are designated as Easements Nos. 1, 2, 3, 4, 5 and 6 on that certain survey of Tract 8 and Tract 9A made by Erlandsen, Crowell & Shaw, dated July 2, 2012, as last revised September 6, 2012 (the "Survey") and the location of the Tract 8 Access Easement designated as Easement No. 7 on the Survey. In addition, each such right and easement being described in and incorporated by reference in that certain Amended and Restated Company Sublease Agreement ("Company Lease") dated September 01, 2012, made by and between the New York City Industrial Development Agency, as landlord, and AERO JFK, LLC, as tenant, to be recorded with the Register of Queens County in the City of New York.

ALSO TOGETHER WITH the benefits of Ingress/Egress as provided in Sections 7(a), (b), (c) and (d) of the Lease as recorded 8/29/2001 in Reel 5994 Page 1632.

AND ALSO TOGETHER WITH the rights of vehicular, pedestrian, and aircraft ingress, egress and regress in, through, over and around JFK International Airport, including, but not limited to taxiways, air space, airport facilities, mobile and fixed fueling stations, loading and unloading docks and stations, navigational aids, landing fields, ramps, cargo aprons, runways, interior access ways, commercial and/or private access ways and roads demised for the use, occupancy, maintenance and operation of the premises.

DESCRIPTION OF TRACT 9A FACILITY IMPROVEMENTS

The Tract 9A Facility Improvements include a building containing approximately 137,836 square feet of cargo operations area and cargo support and shop areas, approximately 34,264 square feet of administrative offices and customer service offices, an aircraft apron area containing approximately 190,339 square feet, and a customer and employee vehicular parking area containing approximately 204 automobile parking spaces.

DESCRIPTION OF TRACT 9A FACILITY PROJECT EQUIPMENT

Any and all machinery, equipment and other property all constituting fixtures and installed or used or usable in connection with the operation of the Tract 9A Facility, regardless of whether the cost of such equipment, or any part thereof, is paid for or otherwise financed with the Bond proceeds. Such fixtures shall not include the personal property of any Facility Tenant.

The Tract 9A Facility Project Equipment shall include, but not be limited to, the following:

- Scissor Lifts
- Power Roller Conveyors
- Ball Mats
- Scales
- Fixed Work Stations
- Elevating Work Stations

DESCRIPTION OF THE TRACT 9A FACILITY SITE

The premises demised by that Agreement of Lease AYD-038 dated as of 11/15/2000, made by and between The Port Authority of New York and New Jersey (the "Authority"), as Landlord and AIRIS JFK II, LLC ("Airis"), as Tenant, a Memorandum of which being recorded on 8/29/2001 in Reel 5994 Page 1632 in the Office of the Register of Queens County ("Recorder"); which lease as assigned by Assignment and Assumption of Lease Made by AIRIS JFK II, LLC to AIRIS JFK I, LLC, dated as of 08/01/2001, recorded on 08/29/2001 in Reel 5995 Page 65; which Lease being amended by that certain Supplemental Agreement (Supplement No. 1) dated as of October 15, 2002, made by the Authority and Airis; which lease being further amended, assigned to and assumed by AERO JFK LLC ("Lessee") by virtue of the following: (i) Assignment and Assumption of Lease Agreements and Consent Agreement dated 4/29/2005 made by Airis, the Authority and Lessee; and (ii) Supplemental Agreement (Supplement No. 2) dated 4/29/2005 made by Airis, as assignor, the Authority, and Aero JFK LLC as assignee, which assignment being evidenced by that certain Assignment of Ground Lease dated 4/29/2005 made by AIRIS JFK I, LLC, as assignor to Lessee, as assignee, recorded 5/17/2005 as CRFN number 2005000283648 with the Recorder; together with all renewals and extensions thereof (collectively, the "TRACT 9A Lease"); which Tract 9A Lease being further evidenced by that certain Consent Agreement dated September 1, 2012, made by the Authority, Lessee, 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 of New York (the "NYC IDA"); The Bank of New York Mellon Trust company, National Association, as trustee under the Bond Indenture ("BNY Mellon"), and Wells Fargo Bank National Association, as Master Trustee as evidenced by a memorandum of even date therewith to be recorded with the Recorder, described as follows:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough and County of Queens, City and State York, bounded and described as follows:

ALL coordinates used herein refer to points on the final maps of the Borough of Queens, City of New York, Office of the President, Topographical Bureau. Such coordinates are based on a rectangular system having as an origin the east line of 10th Avenue, Manhattan, New York, projected 18,568.333 feet north of the south line of West 155th Street, Manhattan, New York, which origin point is located approximately at the northeast corner of West 225th Street and 10th Avenue, Manhattan, New York, and has the coordinates 40 degrees 52 minutes 33.479 seconds North, 73 degrees 54 minutes 39.028 West. The line of 10th Avenue is held as grid North, which is 28 degrees 59 minutes 13.5 seconds East of true north.

BEGINNING at a point at the northwest corner of the premises herein described, said beginning point have the coordinates value of South 56,207.414 and East 65,461.024.

RUNNING THENCE South 28 degrees 21 minutes 00 seconds East, 920.00 feet to a point which has the coordinates of south 57,017.072 and east 65,897.892;

RUNNING THENCE North 61 degrees 39 minutes 00 seconds East, 763.53 feet to a point which has the coordinates of south 56,654.503 and east 66,569.849;

RUNNING THENCE North 31 degrees 39 minutes 00 seconds East, 285.95 feet to a point which has the coordinates of south 56,411.082 and east 66,719.896;

RUNNING THENCE north 58 degrees 21 minutes 00 seconds West, 193.24 feet to a point which has the coordinates of south 56,309.686 and east 66,555.400;

THENCE along the arc of a circle, the radius of which is 870.00 feet, the interior angle of which is 30 degrees 00 minutes 00.00 seconds and center point of which has the coordinates South 55,569.082, East 67,011.915, an arc distance of 455.53 feet to a point which has the coordinates of South 55,982.207 and East 66,246.260;

RUNNING THENCE north 28 degrees 21 minutes 00 seconds west, 174.68 feet to a point which has the coordinates of South 55,828.479 and East 66,163.312;

RUNNING THENCE South 61 degrees 39 minutes 00 seconds West, 798.00 feet to the point or place of BEGINNING.

TOGETHER WITH the beneficial rights and easements granted in favor of AIRIS JFK I, LLC under the Agreement of Lease dated as of November 15, 2000 and identified as Lease No. AYD-038, between the Port Authority of New York and New Jersey, as lessor and AIRIS JFK II, LLC (as assigned to AIRIS JFK I, LLC), as lessee, including (i) easements for ingress and access over the taxilanes serving the Tract 9A site ("Taxilane") and (ii) an easement of ingress, egress and access between the Tract 9A site and the Van Wyck Expressway (the "Tract 9A Access Easement"). The location of the easements with respect to the Taxilanes and designated as Easements Nos. 1, 2, 3, 4, 5 and 6 on that certain survey of Tract 8 and Tract 9A made by Erlandsen, Crowell & Shaw, dated July 2, 2012, as last revised September 6, 2012 (the "Survey") the location of the Tract 9A Access Easement being designated as Easement No. 8 on the Survey. In addition, each such right and easement being described in and incorporated by reference in that certain Amended and Restated Company Sublease Agreement dated September 01, 2012, made by and between the New York City Industrial Development Agency, as landlord, and AERO JFK, LLC, as tenant.

ALSO TOGETHER WITH the benefits of Ingress/Egress as provided in Section 7 (a), (b), (c) and (d) of the Lease recorded 8/29/2001 in Reel 5994 page 1626.

AND ALSO TOGETHER WITH the rights of vehicular, pedestrian, and aircraft ingress, egress and regress in, through, over and around JFK International Airport, including, but not limited to taxiways, air space, airport facilities, mobile and fixed fueling stations, loading and unloading docks and stations, navigational aids, landing fields, ramps, cargo aprons, runways, interior access ways, commercial and/or private access ways and roads demised for the use, occupancy, maintenance and operation of the premises.

EXHIBIT A

AUTHORIZED REPRESENTATIVE

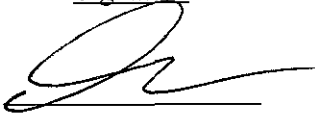
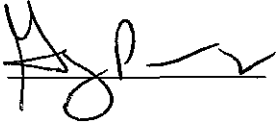
<u>Name</u>	<u>Title</u>	<u>Signature</u>
Tony Lin	Senior Vice President	
George Psaras, Jr.	Senior Vice President	

EXHIBIT B

Principals

Company:

CalEast CAC, LLC

[FORM OF REQUIRED DISCLOSURE STATEMENT]

The undersigned, an authorized representative of _____, a _____ organized and existing under the laws of the State of _____, DOES HEREBY CERTIFY, REPRESENT AND WARRANT to the New York City Industrial Development Agency (the "Agency") pursuant to [Section 8.20] [Section 8.9] of that certain Installment Sale Agreement and Assignment of Lease, dated as of September 1, 2012, between the Agency and Aero JFK LLC, a limited liability company organized and existing under the laws of the State of Delaware (the "Installment Sale Agreement") THAT:

[if being delivered pursuant to 8.20 of the Installment Sale Agreement] None of the surviving, resulting or transferee Entity, any of the Principals of such Entity, or any Person that directly or indirectly Controls, is Controlled by, or is under common Control with such Entity:

[if being delivered pursuant to 8.9 of the Installment Sale Agreement] None of the assignee, transferee or sublessee Entity, any of the Principals of such Entity, or any Person that directly or indirectly Controls, is Controlled by, or is under common Control with such Entity:

(1) 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;

(2) has been convicted of a misdemeanor related to truthfulness and/or business conduct in the past five (5) years;

(3) has been convicted of a felony in the past ten (10) years;

(4) has received formal written notice from a federal, state or local governmental agency or body that such Person is currently under investigation for a felony criminal offense; or

(5) has received written notice of default in the payment to the City of any taxes, sewer rents or water charges, which have not been paid, unless such default is currently being contested with due diligence in proceedings in court or other appropriate forum.

As used herein, the following capitalized terms shall have the respective meanings set forth below:

"City" shall mean The City of New York.

"Control" or "Controls" shall mean the power to direct the management and policies of a Person (x) through the ownership, directly or indirectly, of not less than a majority of its voting

securities, (y) through the right to designate or elect not less than a majority of the members of its board of directors or trustees or other Governing Body, or (z) by contract or otherwise.

“Entity” shall mean any of a corporation, general partnership, limited liability company, limited liability partnership, joint stock company, trust, estate, unincorporated organization, business association, tribe, firm, joint venture, governmental authority or governmental instrumentality, but shall not include an individual.

“Governing Body” shall mean, when used with respect to any Person, its board of directors, board of trustees or individual or group of individuals by, or under the authority of which, the powers of such Person are exercised.

“Person” shall mean an individual or any Entity.

“Principal(s)” shall mean, with respect to any Entity, the most senior three officers of such Entity, any Person with a ten percent (10%) or greater ownership interest in such Entity, and any Person as shall have the power to Control such Entity, and “principal” shall mean any of such Persons.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this ____ day of _____, 20__.

[NAME OF CERTIFYING ENTITY]

By: _____
Name:
Title:

DESCRIPTION OF EXISTING FACILITY LEASES
AERO JFK PROJECT BUILDING AREAS (TRACTS 8 AND 9A)

Subtenant	TRACT 8						TRACT 9A	Total
	Alliance Airlines	Cargo Air Lines	Kuwait Airways	Lufthansa Cargo	Lufthansa Technik Logistik	Royal Air Maroc	Delta Air Lines	
Initial Term	10 years (currently in initial term)	Continues until terminated with notice.	Continues until terminated with notice	5 years	5 years	Continues until terminated with notice	Until 7/13/2028	
Expiration (if no renewal)	6/30/2013	n/a	n/a	6/30/2018	6/30/2013	n/a	7/13/2028	
Renewal Terms	One 5-year renewal term	n/a	n/a	Two 5-year renewal terms (currently in first renewal term; second renewal term exercised)	Two 5-year renewal terms (currently in first renewal term)	n/a	None	
Building Cargo Area (sq. ft.)	63,324	n/a	n/a	141,732	4,039	n/a	137,836	346,931
Building Office Area (sq. ft.)	8,236	979	2,070	38,952	2,167	703	34,264	87,371
Total Building Area (sq. ft.)	71,560	979	2,070	180,684	6,206	703	172,100	434,302 (plus 1,965 sq. ft. vacancy)
Percentage of Building Area	16.403%	0.224%	0.474%	41.416%	1.423%	0.161%	39.448%	99.55% (0.45% vacancy)
Ramp and Other Area (sq. ft.)	200,070	n/a	n/a	199,765	6,230	n/a	190,339	596,404
Percentage of Ramp and Other Area	33.546%	n/a	n/a	33.495%	1.045%	n/a	31.914%	100%
Annual Base Rent	\$3,090,000	\$22,529	\$44,986	\$5,121,762	\$189,057	\$15,278	\$5,753,491	\$14,237,103
Monthly Base Rent	\$257,500	\$1,877	\$3,749	\$426,814	\$15,755	\$1,273	\$479,458	\$1,186,426
Annual Additional Rent	n/a	\$22,432	\$47,581	\$4,948,383	\$126,769	\$16,284	\$4,057,637	\$9,219,086
Monthly Additional Rent	n/a	\$1,869	\$3,965	\$412,365	\$10,564	\$1,357	\$338,136	\$768,256

EXHIBIT E

FORM OF TENANT CERTIFICATE AND AGREEMENT

TENANT CERTIFICATE AND AGREEMENT

THIS AGREEMENT made as of this ____ day of _____, 2012 (this "Agreement"), by and among AERO JFK, LLC ("*Landlord*"), **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association (together with its successors and assigns, "*Master Trustee*"), as Master Trustee under the Master Indenture (defined below), and _____ ("*Tenant*").

RECITALS:

A. Pursuant to that certain Ground Lease, dated _____, between The Port Authority of New York and New Jersey (the "*Ground Lessor*") and Landlord (the "*Ground Lease*"), Landlord leases approximately ____ square feet of land within ____ acres of the property ("*Property*") from the Ground Lessor; and

B. Tenant has executed that certain lease (the "*Lease*") as more particularly described and summarized as follows:

Landlord: _____
Tenant: _____
Lease Date: _____
Lease Amendments: _____
Leased Premises: _____ as described on Exhibit A attached hereto (the "*Leased Premises*")
Square Footage Leased: _____
Initial Term: ____ years
Option to Extend Term: _____
Lease Commencement Date: _____
Expiration Date: _____
Base Rent: \$ _____ /month; \$ _____ /year
Additional Rent: _____

C. In connection with the issuance of New York City Industrial Development Agency, Senior Airport Facilities Revenue and Refunding Bonds (TriPs Obligated Group), Series 2012A (the "*Bonds*"), the Landlord will enter into a Master Trust Indenture (as the same may be amended and supplemented from time to time, the "*Master Indenture*") with Master Trustee and a group of affiliated entities (together with the Landlord, the "*Obligated Group*") in order to refinance indebtedness incurred in connection with certain projects at JFK International Airport, including the Property, with proceeds of the Bonds (the "*Bond Financing*"); and

D. Landlord desires to encumber its leasehold interest in the Ground Lease by granting to Master Trustee a leasehold mortgage (said mortgage or deed of trust and assignment of leases, together with any amendments, renewals, increases, modifications, substitutions or consolidations of either of them, collectively, the "*Security Instrument*") and such other security interests required or permitted to secure the obligations of the Landlord and the joint and several obligations of the Obligated Group under the Master Indenture; and

E. Tenant and Master Trustee desire to confirm their understanding with respect to the Lease and the Security Instrument, to have Landlord confirm its agreement therewith and to have Tenant certify as to certain matters relating to the Lease.

NOW, THEREFORE, in consideration of the covenants, terms, conditions, and agreements contained herein, the parties hereto agree as follows:

1. In order to induce the bond purchasers to purchase the Bonds and induce the Master Trustee to enter into the Master Indenture, Landlord is required to deliver to the Master Trustee a certificate of Tenant certifying to Master Trustee as follows:

- (a) The summary information regarding the Lease set forth in the recitals to this Agreement is true and correct.
- (b) The Lease constitutes the entire agreement between Landlord and Tenant with respect to its subject matter, has not been modified (except as set forth above) or terminated and, to the best of Tenant's knowledge, is in full force and effect as of the date of this Agreement.
- (c) To Tenant's knowledge, Landlord is not in default of any of its obligations under the Lease nor has any event occurred which with the giving of notice or passage of time or both would constitute an event of default by Landlord under the Lease, and Tenant has no defenses or offsets against Landlord.
- (d) Tenant is not in default of any of its obligations under the Lease nor has any event occurred which with the giving of notice or passage of time or both would constitute an event of default by Tenant under the Lease.
- (e) Tenant has not sublet any portion of the Leased Premises, granted any license or concession relating to the Leased Premises or any portion thereof or assigned any or all of its interest in the Lease; other than pursuant to its lease with _____.
- (f) Tenant has received no notice of any assignment or transfer by Landlord, or proposed assignment or transfer (including for collateral purposes), of the Lease or of the rents reserved in the Lease.
- (g) The Lease contains no right of first refusal, right of expansion or termination option in favor of Tenant, except: _____

_____.
- (h) There is no guaranty of the Lease, except as follows: _____
_____.

- (i) Tenant understands that upon receipt of notice from Landlord and/or the Master Trustee, Tenant thereafter agrees to make all payments required under the Lease to the Master Trustee. Further, upon receipt of such notice, Tenant will thereafter look to the Master Trustee (or its designee) and not Landlord as the landlord under the Lease. Tenant further agrees to give all notices required to be given by Tenant to Landlord under the Lease to Master Trustee upon Tenant's receipt of such notice.
- (j) Landlord has fully performed all obligations on the part of Landlord (including tenant work or payments on account thereof) to be performed under the Lease, and there are no agreements with Tenant for the performance of any work or otherwise with respect to any matter except as set forth in the Lease, all of which has been fully performed by Landlord.
- (k) Tenant is not the subject of any bankruptcy or other insolvency proceedings.

2. The Lease and any extensions, modifications or renewals thereof, including but not limited to any option to purchase, right of first refusal to purchase or right of first offer to purchase the Property or any portion thereof or any interest therein, if any, is and shall continue to be subject and subordinate in all respects to the Security Instrument and the lien created thereby.

3. Tenant agrees to deliver to Master Trustee, in the manner set forth in Paragraph 14 of this Agreement, a copy of any notice of default sent to Landlord by Tenant. If Landlord fails to cure such default within the time provided in the lease, Master Trustee shall have the right, but not the obligation, to cure such default on behalf of Landlord within thirty (30) calendar days after the time provided for Landlord to cure such default in the Lease has expired or, if such default cannot be cured within that time, within a reasonable period provided Master Trustee is proceeding with due diligence to cure such default. In such event, Tenant shall not terminate the Lease while such remedies are being diligently pursued by Master Trustee. Further, Tenant shall not terminate the Lease on the basis of any default by Landlord which is incurable by Master Trustee (such as, for example, the bankruptcy of Landlord or breach of any representation by Landlord), provided Master Trustee is proceeding with due diligence to commence an action to appoint a receiver or to obtain title to the Property by foreclosure, deed or assignment in lieu of foreclosure, or otherwise (collectively, "Foreclosure"). Tenant hereby agrees that no action taken by Master Trustee to enforce any rights under the Security Instrument or related security documents, by reason of any default thereunder (including, without limitation, the appointment of a receiver, any Foreclosure or any demand for rent under any assignment of rents or leases) shall give rise to any right of Tenant to terminate the Lease nor shall such action invalidate or constitute a breach of any of the terms of the Lease.

4. So long as Tenant is not in default under the Lease, Master Trustee shall not disturb Tenant's possession and occupancy of the Leased Premises during the term of the Lease.

5. If Master Trustee or its nominee or designee, or another purchaser or assignee of the Property upon a Foreclosure (any such person or entity, a "Successor Owner") succeeds to the interest of Landlord under the Lease, subject to Tenant's performance of its obligations under the Lease, the Lease will continue in full force and effect. Thereupon, Successor Owner shall recognize the Lease and Tenant's rights thereunder and Tenant shall make full and complete attornment to Successor Owner as substitute landlord upon the same terms, covenants and conditions as provided in the Lease, including, but not limited to, any option to purchase, right of first refusal to purchase or right of first offer to purchase the Property or any interest therein as may be provided in the Lease. Notwithstanding the foregoing, Tenant agrees that any such option, right of first refusal or right of first offer to purchase the Property or any portion thereof or any interest therein, as may be provided in the Lease shall not apply to any Foreclosure, as defined herein, and shall not apply to any transfer or assignment of the Property by Successor Owner following such Foreclosure. In consideration of the foregoing, Master Trustee agrees that any such option, right of first refusal or right of first offer shall not be terminated by any Foreclosure or conveyance or assignment of the Property or any interest therein by Successor Owner following such Foreclosure; rather, any such option, right of first refusal or right of first offer shall remain as an obligation of any party acquiring the Property or any interest therein following the conveyance or assignment of the Property or any interest therein by Successor Owner following such Foreclosure. Furthermore, Tenant expressly confirms to Master Trustee that any acquisition of title to all or any portion of the Property or any interest therein pursuant to Tenant's exercise of any option, right of first refusal or right of first offer contained in the Lease shall result in Tenant taking title subject to the lien of the Security Instrument.

6. Tenant agrees that, if Successor Owner shall succeed to the interest of Landlord under the Lease, Successor Owner shall not be:

- (a) liable for any prior act or omission of Landlord or any prior landlord or consequential damages arising therefrom; or
- (b) subject to any offsets or defenses which Tenant might have as to Landlord or any prior landlord unless Master Trustee has failed to cure any default by Landlord as herein provided; or
- (c) required or obligated to credit Tenant with any rent or additional rent for any rental period beyond the then current month which Tenant might have paid Landlord; or
- (d) bound by any amendments or modifications of the Lease made without Master Trustee's or Successor Owner's prior written consent; or
- (e) liable for refund of all or any part of any security deposit unless such security deposit shall have been actually received by Master Trustee.

7. Tenant agrees that, without the prior written consent of Master Trustee in each case, Tenant shall not (a) amend, modify, terminate or cancel the Lease or any extensions or renewals thereof, or tender a surrender of the Lease (except in each case that, upon a default by

Landlord under the Lease, Tenant may exercise its rights under the Lease after giving to Master Trustee the notice and cure period required by this Agreement), (b) make a prepayment of any rent or additional rent more than one (1) month in advance of the due date thereof, or (c) subordinate or permit the subordination of the Lease to any lien subordinate to the Security Instrument. Any such purported action without such consent shall be void as against the holder of the Security Instrument.

8. To the extent that the Lease shall entitle Tenant to notice of the existence of any Security Instrument and the identity of any mortgagee or any ground lessor, this Agreement shall constitute such notice to Tenant with respect to the Security Instrument and Master Trustee.

9. Upon and after the occurrence of a default under the Security Instrument, which is not cured after any applicable notice and/or cure periods, Master Trustee shall be entitled, but not obligated, to require that Tenant pay all rent under the Lease as directed by Master Trustee, which payment shall, to the extent made, satisfy the obligations of Tenant under the Lease. Landlord agrees to hold Tenant harmless with respect to any such payments made by Tenant to Master Trustee.

10. Nothing in this Agreement shall impose upon Master Trustee any liability for the obligations of Landlord under the Lease unless and until Master Trustee takes leasehold title to the Property. Anything herein or in the Lease to the contrary notwithstanding, in the event that a Successor Owner shall acquire title to the Property or the portion thereof or interest therein containing the Leased Premises, Successor Owner shall have no obligation, nor incur any liability, beyond Successor Owner's then interest, if any, in the Property, and Tenant shall look exclusively to such interest, if any, of Successor Owner in the Property for the payment and discharge of any obligations imposed upon Successor Owner hereunder or under the Lease, and Successor Owner is hereby released or relieved of any other liability hereunder and under the Lease. Tenant agrees that, with respect to any money judgment which may be obtained or secured by Tenant against Successor Owner, Tenant shall look solely to the estate or interest owned by Successor Owner in the Property, and Tenant will not collect or attempt to collect any such judgment out of any other assets of Successor Owner.

11. Except as specifically provided in this Agreement, Master Trustee shall not, by virtue of this Agreement, the Security Instrument or any other instrument to which Master Trustee may be party, be or become subject to any liability or obligation to Tenant under the Lease or otherwise.

12. EACH OF TENANT, MASTER TRUSTEE AND LANDLORD HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

13. The provisions of the Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The words, "Master Trustee", "Landlord" and "Tenant" shall include their respective heirs, legatees, executors, administrators, beneficiaries, successors and assigns.

14. All notices and all other communication with respect to this Agreement shall be directed as follows: if to Master Trustee, 230 West Monroe Street, Suite 2900, Chicago, Illinois 60606, Attention: Corporate Trust Administration, or such other address as Master Trustee may designate in writing to Tenant; and, if to Tenant, at the address set forth in the Lease or at such other address as Tenant may designate in writing to Master Trustee. All notices shall be in writing and shall be (a) hand-delivered, (b) sent by United States express mail or by private overnight courier, or (c) served by certified mail postage prepaid, return receipt requested, to the appropriate address set forth above. Notices served as provided in (a) and (b) shall be deemed to be effective upon delivery or upon refusal thereof. Any notice served by certified mail shall be deposited in the United States mail with postage thereon fully prepaid and shall be deemed effective on the day of actual delivery as shown by the addressee's return receipt or the expiration of three business days after the date of mailing, whichever is earlier in time.

15. This Agreement contains the entire agreement among the parties and no modifications shall be binding upon any party hereto unless set forth in a document duly executed by or on behalf of such party.

16. This Agreement may be executed in multiple counterparts, all of which shall be deemed originals and with the same effect as if all parties had signed the same document. All of such counterparts shall be construed together and shall constitute one instrument.

[no further text this page]

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

**WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Master Trustee**

By: _____

Name:

Title: Authorized Signatory

**[TENANT],
as Tenant**

By: _____

Name:

Title:

AGREED AND CONSENTED TO:

**AERO JFK, LLC,
as Landlord**

By: _____

Name:

Title:

EXHIBIT A

Description of Leased Premises

EXHIBIT F

EXISTING FACILITY TENANT DEFAULTS

Alliance Airlines