

CONCESSION AGREEMENT

THE CITY OF NEW YORK ACTING BY AND THROUGH THE NEW YORK CITY
DEPARTMENT OF SMALL BUSINESS SERVICES

AND

DOWNTOWN SKYPORT LLC

[INSERT DATE]

Table of Contents

	<u>Page</u>
ARTICLE I DEFINITIONS	2
Section 1.01 Definitions.....	2
ARTICLE II TERM; GRANT OF RIGHTS TO USE.....	9
Section 2.01 Term.....	9
Section 2.02 Scope of Services.....	10
Section 2.03 Right to Operate.....	19
Section 2.04 Limitations on Grant to Operate.....	21
ARTICLE III FEES AND PAYMENTS	25
Section 3.01 Revenue Collection and Payment.....	25
Section 3.02 Other Payment Obligations.....	27
Section 3.03 Accounting and Activity Reporting.....	28
ARTICLE IV MAINTENANCE; CAPITAL IMPROVEMENTS	31
Section 4.01 Management, Operation and Maintenance.....	31
Section 4.02 Maintenance of JRB and Equipment.....	31
Section 4.03 Condition of JRB.....	32
Section 4.04 Improvements.....	33
Section 4.05 Improvements, Maintenance, Repairs, Replacements, Alterations and Renovations.....	36
Section 4.06 Code Compliance.....	39
Section 4.07 Procurement of Bids, Services and Goods.....	40
Section 4.08 Hazardous Materials.....	40
Section 4.09 Personnel.....	41
Section 4.10 No Discrimination.....	41
Section 4.11 Prohibition of Liens.....	42
Section 4.12 Prohibition on Security Interests.....	42
Section 4.13 Access.....	42
Section 4.14 Delegation.....	42
ARTICLE V INDEMNIFICATION AND CASUALTY	42
Section 5.01 Indemnification.....	42
Section 5.02 Reporting of Accident/Incidents.....	45
Section 5.03 Pre-Term Liability.....	45
ARTICLE VI INSURANCE	45

Section 6.01	Liability Insurance	45
Section 6.02	Pollution Insurance	48
Section 6.03	Property Insurance	48
Section 6.04	Builders' Risk Insurance.....	49
Section 6.05	Workers' Compensation, Employers Liability, Disability Benefits Insurance.....	49
Section 6.06	Employment Practices Liability Including Third-Party Coverage	49
Section 6.07	Deductibles	50
Section 6.08	Other and Additional Insurance	50
Section 6.09	Insurance Policy Requirements.....	50
Section 6.10	Premiums: Evidence of Insurance	51
Section 6.11	Cooperation.....	52
Section 6.12	Additional Policies of Personal Liability Insurance	52
Section 6.13	Claims under Property Insurance or Builder's Risk Insurance.....	52
Section 6.14	Compliance with Requirements of Insurance Carriers	53
Section 6.15	Liability Insurance on an "Occurrence" Basis.....	53
Section 6.16	Property Insurance Proceeds.....	53
Section 6.17	Failure to Procure or Maintain Required Insurance.....	54
Section 6.18	The City Rights under Insurance Purchased by Third Parties	54
Section 6.19	Minimum Levels of Insurance Purchased by Certain Third Parties	54
Section 6.20	Relationship between Insurance and Indemnification	55
Section 6.21	Insurance Primary and Non-Contributory	55
Section 6.22	Operator's Continuing Liability.....	55
Section 6.23	Self-Insurance Program	55
Section 6.24	No Representation as to Adequacy of Coverage	55
Section 6.25	Flood Insurance.....	56
ARTICLE VII	TERMINATION.....	56
Section 7.01	Events of Default	56
Section 7.02	Expiration.....	58
Section 7.03	Remedies.....	58
Section 7.04	Termination Options	59
Section 7.05	Condemnation.....	59
ARTICLE VIII	COMPLIANCE WITH LAW, VENUE AND APPLICABLE LAW	59
Section 8.01	Compliance with Law	59
Section 8.02	Governing Law; Waiver of Trial by Jury; Venue.....	61

Section 8.03	Governmental Approval.....	61
Section 8.04	Noise Control; Nuisance.....	61
Section 8.05	Weight Control.....	61
Section 8.06	Investigation.....	62
Section 8.07	Review and Approval	65
Section 8.08	Conflict of Interest	65
ARTICLE IX MISCELLANEOUS PROVISIONS.....		65
Section 9.01	Transition	65
Section 9.02	No Assurances as to Volume	65
Section 9.03	Security	65
Section 9.04	Binding Effect.....	66
Section 9.05	Beneficiaries	66
Section 9.06	Waivers and Consents.....	66
Section 9.07	Notices	66
Section 9.08	Severability	66
Section 9.09	Headings	66
Section 9.10	Entire Agreement; No Oral Modifications	67
Section 9.11	Assignment.	67
Section 9.12	Dissolution, Merger or Sale of Operator.....	67
Section 9.13	Representation and Warranties	67
Section 9.14	Force Majeure	68
Section 9.15	Survival.....	68
Section 9.16	Earned Safe and Sick Time Act.....	68
Section 9.17	Workforce Development and M/WBE	69
Exhibit A	Site Plan	
Exhibit B	Berthing Plan and Last Mile Freight Delivery Services Plan	
Exhibit C	NEGATIVE DECLARATION DATED February 6, 2023 AND ENVIRONMENTAL ASSESSMENT STATEMENT, CEQR NO. 22SBS006M	
Exhibit D	Incentivization Plan	
Exhibit E	Retention Payment/Minimum Annual Guarantee Fee Schedule	
Exhibit F	JRB Operations and Maintenance Plan	
Exhibit G	Air Quality Monitoring Report Template	
Exhibit G-1	Noise Compliant Report Template	
Exhibit H	Special Rates Schedule	
Exhibit I	Helicopter Sightseeing Plan	

Exhibit J	Design, Schedule of Design and Schedule of Construction Costs for Improvements
Exhibit K	Certificate of Insurance Broker or Agent
Exhibit L	Noise Mitigation and Other Issue Procedures
Exhibit M	Tourist Flight Limits
Exhibit N	Paid Safe and Sick Leave Law Rider
Exhibit O	Pier/Barge Load Restrictions
Exhibit P	M/WBE Participation
Exhibit Q	City Capital Projects
Exhibit R	Citywide Food and Beverage Standards
Exhibit S	Transition Plan
Exhibit T	Principals
Exhibit U	HireNYC

DRAFT

CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT (“**Agreement**”) made as of [INSERT DATE] between THE CITY OF NEW YORK ACTING BY AND THROUGH THE NEW YORK CITY DEPARTMENT OF SMALL BUSINESS SERVICES having an address at One Liberty Plaza 11th Floor (“**City**”), and, DOWNTOWN SKYPORT LLC, a Delaware limited liability company having an address at (“**Operator**”).

RECITALS:

WHEREAS, the City owns the premises known as the Downtown Manhattan Heliport consisting of (i) 6,300 total square feet of terminal space city lot (Block 2, part of Lot 23 on the Tax Map for the Borough of Manhattan) and (ii) 71,900 square feet of barge and pier space based on aerial measurement, as generally described in **Exhibit A** hereto (such real property, together with all appurtenances, buildings, facilities, other physical plants, improvements, and fixtures located thereon or to be constructed by Operator pursuant to this Agreement, hereinafter, the Federal Aviation Administration (“**FAA**”) location identifier “**JRB**”);

WHEREAS, on February 6, 2023, the New York City Department of Small Business Services issued a Negative Declaration determining that a concession with a new JRB fixed base operator as described in an Environmental Assessment Statement, CEQR No. 22SBS006M would result in no significant adverse environmental impacts;

WHEREAS, pursuant to the annual amended and restated maritime contract between the City and New York City Economic Development Corporation (“**NYCEDC**” or “**EDC**”), the City has retained NYCEDC to engage in, *inter alia*, various activities intended to promote the economic development of the City’s waterfront property and related transportation facilities, including the operation of JRB;

WHEREAS, City concession agreements are subject to the City’s Franchise and Concession Review Committee (“**FCRC**”) rules;

WHEREAS, on behalf of the City and pursuant to FCRC rules, NYCEDC released a Request for Proposals on November 10, 2023 and subsequent addenda (“**RFP**”);

WHEREAS, Operator submitted a proposal in response to the RFP;

WHEREAS, on _____, 2024, the City accepted the proposal submitted by the Operator to act as the fixed base operator for JRB;

WHEREAS, on _____, 2024, FCRC held a public hearing concerning the selection of the Operator;

WHEREAS, Operator desires the exclusive right to act as fixed base operator for JRB subject to the terms and conditions set forth herein for the purpose of promoting aviation public and waterborne freight use at JRB;

WHEREAS, this Agreement does not authorize any activity not expressly mentioned herein; and

WHEREAS, the City and Operator desire to set forth their agreement with respect to the operation of JRB.

NOW, THEREFORE, in consideration of the benefits accruing to each of the parties as recited to herein, the parties mutually agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. Unless otherwise noted, the following definitions shall apply throughout this Agreement:

“Accident/Incident” shall mean an event or situation related to aircraft use that (1) results in personal injury at or material property damage on or to JRB, or (2) is required to be reported to the FAA pursuant to the rules and regulations of the FAA.

“Affiliate” shall mean with respect to any Person, any Person controlled by, controlling or under common control with such Person.

“Agreement” shall have the meaning set forth in the opening paragraph.

“Agreement Administrator” shall mean NYCEDC, or a successor that is an Affiliate of NYCEDC.

“Aircraft” shall mean either helicopters, Drones (hereinafter defined), eVTOL (hereinafter defined) or other aircraft.

“Ancillary Agreement” shall have the meaning set forth in Section 2.04(a)(ii).

“Availability of JRB” shall mean the right to use JRB and all buildings and improvements and areas thereof, free of the rights of any prior operator or concessionaire and the rights of any third party users of all or any part of JRB not separately approved by Operator (except for the rights of the City and Agreement Administrator as set forth herein or by operation of law). For the avoidance of any doubt, any other impairment of use will not impact the Availability of JRB. In the event of a casualty that materially impairs the use of JRB for purposes set forth in Section 2.02, upon written request from Operator and demonstration of impairments, Agreement Administrator may adjust the Retention Payments accordingly.

“Barge” shall include freight infrastructure related to Berthing Services, including but not limited to the gangway and pier, and the barges denoted in **Exhibit B** attached hereto, as may be further improved in accordance with the parameters set by the EAS.

“Berthing Service” shall have the meaning set forth in Section 2.02(d)(i).

“**Berthing Plan**” shall have the meaning set forth in Section 2.02(d)(i).

“**Business Days**” means any day other than a Saturday, Sunday, all days observed by the State of New York or federal government as legal holidays, a day on which Agreement Administrator or the City is closed for business, a day on which banking institutions in New York City are authorized by law or executive order to close and those days designated as holidays by the applicable building service union employees service contract or by the applicable operating engineers contract.

“**Capital Expenditures**” shall mean investments to be made by Operator in the Improvements in an amount not less than \$7,829,000 with \$5,379,000 in the Initial Term Improvements and \$2,450,000 in the First Renewal Term, as set forth in Exhibit J.

“**Change in Law**” shall have the meaning set forth in Section 8.01.

“**City**” shall have the meaning set forth in the recitals.

“**Commencement Date**” shall have the meaning set forth in Section 2.01.

“**Commissioner**” shall have the meaning set forth in Section 8.06(c).

“**Confidential Information**” shall have the meaning set forth in Section 3.03(c).

“**Control**” and its related terms “Controlled” or “Controlling” means, unless otherwise defined herein for a specific provision of this Agreement, with respect to any Person, (i) the direct or indirect ownership of, or beneficial interest in, not less than ten percent (10%) of the ownership interests in such Person or (ii) the power directly or indirectly to direct the day-to-day management and affairs of such Person, whether through the ability to exercise voting power, by contract or otherwise, including the right to make (or consent to) all capital and other major decisions to be made by such Person.

“**Devices and Activities**” shall have the meaning set forth in Section 8.04(a).

“**Discrimination Laws**” shall have the meaning set forth in Section 4.10.

“**Drones**” shall mean an unmanned aerial vehicle.

“**DSBS**” shall have the meaning set forth in Section 8.03.

“**EAS**” shall mean the Environmental Assessment Statement, prepared by AKRF Inc. on behalf of The City of New York Department of Small Business Services, City Environmental Review Act (“CEQR”) No. 22SBS006M described in Exhibit C and any updates prior to the date herein.

“**EDC**” shall have the meaning set forth in the Recital.

“**Employee**” shall mean an officer, director, agent, employee, or contractor of any of the parties while engaged in any activity related to the Agreement.

“Environmental Laws” shall mean any applicable Federal, state, or local law, statute, ordinance, code, rule, or regulation, as the same may now exist or hereafter be enacted or promulgated or amended from time to time, which (i) relates to the operation, use or condition of JRB and

(ii) pertains to health; safety; any Hazardous Material; air, water or land pollution; toxic wastes; solid wastes; or wetlands and shall include without limitation, the Resource Conservation and Recovery Act, as amended and codified at 42 U.S.C. Sec 9601 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act, as amended and codified at 42 U.S.C. Sec 9601 et seq., including without limitation, as amended by the Superfund Amendments and Reauthorization Act of 1984; the Hazardous Materials Transportation Act, as amended and codified at 49 U.S.C Sec 1801 et seq.; the Federal Water Pollution Act, as amended and codified at 33 U.S.C. Sec 1251 et seq.; the Oil Pollution Act as amended and codified at 33 U.S.C. Sec 2701 et seq.; the Clean Air Act, as amended and codified at 42 U.S.C. Sec 7401 et seq.; and the Toxic Substances Control Act, as amended and codified at 15 U.S.C. Sec 2601 et seq.

“Equitable Adjustment” shall mean that the Operator and the Agreement Administrator shall reasonably agree to an equitable adjustment to the Retention Payments to the extent a Change in Law impacts Operator’s ability to materially meet the Retention Payments due under this Agreement and materially impacts Operator’s costs or revenues, provided that no earlier than sixty (60) days after the date the Change in Law becomes officially known to Operator or thirty (30) days from the effective date of the Change in Law, Operator shall notify the Agreement Administrator in writing of the Change in Law and request an Equitable Adjustment with a proposed amount based on a description, an analysis, and evidence available of the impact of the Change in Law, including projections based on reasonably available information which may consider in part market return, which evidence shall be included in the request and include an adjustment proposal. Operator shall also include a plan demonstrating good faith efforts to mitigate the negative impact of the Change in Law and make alternative use of JRB within the confines of this Agreement to meet the Retention Payment schedule attached hereto as Exhibit E (**“Alternative Revenue Generating Plan”**), which shall be reviewed and approved by Agreement Administrator (**“Approved Alternative Revenue Generating Plan”**) which approval shall not be unreasonably withheld, conditioned or delayed. At all times after receipt of the Equitable Adjustment request, Agreement Administrator may ask for reasonable additional information regarding the request and the Alternative Revenue Generating Plan. Upon approval of the Alternative Revenue Generating Plan or as agreed to by both parties, Operator shall implement the Approved Alternative Revenue Generating Plan for a minimum of six (6) months, and during such time, Operator shall provide monthly reports and evidence demonstrating material impact on revenues collected and Operator’s good faith efforts to mitigate the impact of the Change in Law. At all times during the Equitable Adjustment review period (**“Equitable Adjustment Review Period”**), the City shall have the right to reasonably request additional information regarding the claim of negative impact of the Change in Law and success of the Approved Alternative Revenue Generating Plan. At the end of the Equitable Adjustment Review Period, Operator shall provide an updated report demonstrating its failure to mitigate the impact of the Change in Law despite good faith efforts to implement the Approved Alternative Revenue Generating Plan or success, and upon Agreement Administrator’s review and reasonable satisfaction, the parties hereto shall negotiate to equitably adjust the Retention Payments to a reasonably agreed upon amount for a designated period commencing on the effective date of the Change in Law and the related material

negative impact on the Retention Payments and revenue and costs, according to an agreed upon schedule by both Parties. If the Equitable Adjustment designated period is for more than one year, on each anniversary of Equitable Adjustment, the Operator shall demonstrate to the City that the Equitable Adjustment is still warranted by providing evidence thereof to be approved in a reasonable manner by the Agreement Administrator. If the Change in Law is vacated or no longer has an impact or as much of an impact on the Operator's Retention Payments and costs, then the Equitable Adjustment shall be updated to reflect this circumstance. Notwithstanding the above, Equitable Adjustment may only apply to a Change in Law that is not the result of an Event of Default. If the Operator and the Agreement Administrator fail to agree on any point under the foregoing that is subject to agreement between the parties, such matter may be resolved in accordance with Section 8.02.

“Event of Default” shall have the meaning set forth in Section 7.01.

“eVTOL” shall mean electric vertical take-off and landing Aircraft.

“Expiration Date” shall have the meaning set forth in Section 2.01.

“FAA” shall mean the United States Federal Aviation Administration and any successor agency performing the same or similar functions.

“FCRC” shall have the meaning set forth in the Recitals.

“First Renewal Term” shall have the meaning in Section 2.01.

“First Renewal Term Condition” shall have the meaning in Section 2.01.

“Force Majeure” shall have the meaning set forth in Section 9.14.

“GAAP” shall mean generally accepted accounting principles.

“Gross Receipts” shall collectively mean all revenues as are payable to Operator or an Affiliate of Operator, as determined in accordance with GAAP, generated from, or in connection with any and all services and/or operations provided by Operator at JRB, including, without duplication, (i) amounts received from or in respect of licenses and use agreements, such as fixed rental or fees, minimum rental or fees, rental or fees computed on the basis of sales or other criteria, additional rental or fees, escalation rental or fees, security deposits applied in payment of any rental or fees, proceeds of insurance paid in lieu of rental or fees, and payments for electricity, air conditioning and cleaning; (ii) amounts received as landing and take-off fees, aircraft handling fees, fuel fees, eVTOL charging fees and aircraft storage fees; (iii) the sale of goods or services provided at JRB by vendors or other parties pursuant to agreements with Operator (collectively, **“Vendors”**); (iv) amounts received from non-aeronautical services including but not limited to use of Berthing Services and Last Mile Freight Delivery Services as well as other uses of JRB and (v) amounts received as a result of activities performed by other users of JRB, including but not limited to use for receptions or other special events, advertising or for photography, including without limitation, fuel sales, landing fees, take-off fees, maintenance charges, passenger and aircraft handling fees, repair charges, ticket sales, parking revenues, storage and hangar charges, receipts from merchandise, food, beverages, and receipts from vending machines, derived from

any use of JRB, but excluding reimbursements paid to Operator or an Affiliate of Operator for services, utilities, taxes and other items to the extent reimbursed to Operator or its Affiliate at cost, and also excluding equity investments, financing proceeds and insurance proceeds.

“Hazardous Material” shall have the meaning set forth in Section 5.01(b).

“Improvements” shall have the meaning set forth in Section 4.04.

“Indemnified Parties” shall have the meaning set forth in Section 5.01(a).

“Information” shall have the meaning set forth in Section 3.03(b)(ii).

“Initial Term Improvements” shall have the meaning set forth in Section 4.04(a).

“Last Mile Freight Delivery Services” shall have the meaning set forth in Section 2.02(e)(i).

“Last Mile Freight Delivery Services Plan” shall have the meaning set forth in Section 2.02(e)(i).

“Law(s)” shall have the meaning set forth in Section 8.01.

“Licensees” shall mean any Person permitted to use or occupy JRB or any portion thereof pursuant to an agreement with Operator for the purpose of take-off, landing or storage of Aircraft, providing any service to any other user of JRB or for any other purpose permitted under this Agreement.

“Loss or Damage” shall mean all claims, liabilities, costs and expenses of every kind or nature, including amounts paid under any state or federal compensation law, and costs and attorneys’ fees incurred in the investigation, defense, or settlement of any actual or threatened legal proceeding related to personal injury or property loss or damage (including environmental loss or damage). Property loss or damage includes loss or damage to real property and improvements thereon, and personal property of any party or third persons. Personal injury includes injury to or illness or death of persons including employees of any party or third persons.

“Marine Highway Project Improvements” shall mean the executed Marine Highway Project Improvements for maritime freight operations, in accordance with the 100% design and Agreement Administrator and Operator agreed upon conceptual plans, both referenced in Section 4.04 herein, including but not limited to providing and installing a barge serving as a stationary dock as well as the necessary supporting infrastructure, and gangway(s) connecting to the pier portion of JRB, as further described in Exhibit J, as may be (i) further modified by the Agreement Administrator in consultation with Operator, including with respect to value engineering, and (ii) may be partially funded pursuant to the terms of a funding agreement to be negotiated by Agreement Administrator and Operator.

“Minimum Annual Guarantee” or “MAG” shall have the meaning set forth in Exhibit E.

“New Improvements” shall have the meaning set forth in Section 4.04.

“Noise Control Code” shall have the meaning set forth in Section 8.04(a).

“Non-Operator Liability” shall have the meaning set forth in Section 4.03(a).

“Notice of Suspension” shall have the meaning in Section 2.01(c).

“NYCEDC” shall have the meaning set forth in the Recital.

“NYCDOT” shall mean the New York City Department of Transportation or any successor agency performing the same or similar functions.

“NYSDOT” shall mean the New York State Department of Transportation or any successor agency performing the same or similar functions.

“Operator” shall have the meaning set forth in the Recital.

“Person” shall have the meaning any individual or any entity, whether a trustee, corporation, partnership, limited liability company, limited liability partnership, joint stock company, trust, estate, unincorporated organization, business association, tribe, firm, joint venture, any federal, state, county or municipal government, or any bureau, department or agency thereof, any governmental authority, governmental instrumentality, or any fiduciary acting in such capacity on behalf of any of the foregoing.

“Permitted Persons” shall have the meaning any Person that (i) is not in default or in breach, beyond any applicable grace period, of its obligations under any written agreement with the City or NYCEDC, unless such default or breach has been waived in writing by the City or NYCEDC, as the case may be; (ii) has not been convicted of a felony and/or any crime involving moral turpitude in the preceding ten (10) years; (iii) shall not have 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; (iv) has not received written notice of default in the payment to the City of any taxes or impositions, that have not been paid, unless such default is then being contested with due diligence in proceedings in a court or other appropriate forum; (v) has not, at any time in the three (3) preceding years, owned any property which, while in the ownership of such Person, was acquired by the City by in rem tax foreclosure, other than a property in which the City has released or is in the process of releasing its interest to such Person pursuant to the City Admin. Code; and (vi) is not Controlled by a Person described in subsections (i) through (v) above.

“Plans and Specifications” shall mean, collectively, the schematics, design development drawings, and construction drawings for the Improvements, as further described and approved pursuant to Section 4.04(a).

“Representatives” shall have the meaning set forth in Section 3.03(c).

“Renewal Term” shall have the meaning provided in Section 2.01.

“Retention Payments” shall have the meaning set forth in Section 3.01(b).

“Security Deposit” shall mean the amount set forth in Section 3.01(c), which is required for the duration of the Term of the Agreement and may be in the form of a letter of credit or another format approved by the Agreement Administrator. If the Security Deposit is deposited with Agreement Administrator in the form of check drawn against an account maintained with a bank that is a member of the New York Clearinghouse or by electronic wire transfer (“Cash Security Deposit”) the Cash Security Deposit shall be placed by Agreement Administrator in an interest-bearing account. Interest that accrues thereon shall belong to Operator, except such portion thereof as shall be equal to one percent (1%) per annum, which portion shall be paid to Agreement Administrator as an administrative fee and which Agreement Administrator may withdraw from time to time and retain. The obligation to pay any taxes related to or affecting any interest earned on such Cash Security Deposit (except as to that portion thereof which belongs to Agreement Administrator) shall be the sole responsibility of Operator and Operator hereby agrees to pay same and to forever indemnify and save harmless Agreement Administrator in respect thereof. Operator shall, within fifteen (15) days after demand, furnish Agreement Administrator or its agent with a tax identification number for use in respect of such deposit.

“State” shall mean the state of New York.

“Substantial Completion of the Initial Term Improvements”, **“Substantially Complete”** shall have occurred when all work has been completed substantially in accordance with the Plans and Specifications as substantiated by an AIA G704 certificate of substantial completion (or the like) executed by a certified architect, all systems set forth in the Plans and Specifications, as applicable, are operating and such work and systems have been accepted by Operator (as evidenced by inspection reports and Operator certified letter indicating acceptance of work and systems to be submitted by Operator to Agreement Administrator) except for minor repairs, corrections, and adjustments of a “punch list” nature which can be completed promptly and with minimal interference to the occupancy and use of the Premises by Operator, a temporary or permanent certificate of completion or occupancy for the Improvements for the uses described herein and in accordance with **Exhibit J**, as applicable, has been issued, and sign off from the appropriate authorities that the eVTOL charging and related infrastructures are installed and the Marine Highway Project Improvements are complete, all done to the reasonable satisfaction of Agreement Administrator.

“Substructure” means the substructure of the decking over the East River, including without limitation the substructure of the Barge which substructure is the responsibility of the City. For the avoidance of any doubt, Substructure shall not include the substructure for the barge or related structures in the Marine Highway Project Improvements for which the Operator will be fully responsible.

“Suspension” or **“Suspensions”** shall have the meaning set forth in Section 2.01(c).

“Term” shall have the meaning set forth in Section 2.01.

“Total Flight Restrictions” shall mean FAA mandated airspace restrictions for limited periods of time such as during the UN General Assembly and dignitary visits.

“**Tourist Flight**” or “**Tourist Flight Operations**” means an Aircraft first taking off from JRB, then flying along the Authorized Routes, and then landing back at JRB.

“**TSA**” shall mean Transportation Security Administration.

“**USCG**” shall mean the United States Coast Guard.

“**USDOT**” shall mean the United States Department of Transportation or any successor agency performing the same or similar functions.

“**Vehicle(s)**” shall have the meaning set forth in Section 2.04(b).

“**Vendors**” shall mean vendors providing for the sale of goods or services at JRB pursuant to agreements with Operator and/or its sub operators or agents.

ARTICLE II

TERM; GRANT OF RIGHTS TO USE

Section 2.01 Term. This Agreement shall become effective upon registration with the Comptroller of the City of New York (“**Comptroller**”). The initial term of this Agreement (“**Initial Term**”) shall commence upon the date set forth in a written notice to proceed issued by Agreement Administrator following registration with the Comptroller and Availability of JRB (“**Commencement Date**”) and continue for five (5) years from such Commencement Date with one five (5) year conditional term to renew (“**First Renewal Term**”) based on Substantial Completion of the Initial Term Improvements (to the extent required under this Agreement to be completed by that time) (“**First Renewal Term Condition**”) and two additional five (5) year renewal periods (each of the three renewal terms, a “**Renewal Term**”) unless sooner terminated in accordance with the provisions hereof (such date is hereinafter referred to as the “**Expiration Date**”). Six (6) months prior to the expiration of the Initial Term, the City, subject to the First Renewal Term Condition, shall offer Operator an option to renew the Agreement. Six (6) months prior to the expiration of the remaining Renewal Terms, the City, in the exercise of its sole discretion, may offer Operator an option to renew the Agreement. Each Renewal Term shall be upon the same terms and conditions applicable during the Initial Term except as to the Retention Payments, which, in the event of any such renewal, shall be as provided in Section 3.01(b) hereof, provided that (1) the Agreement shall then be in full force and effect in accordance with its terms, (2) there shall not then exist any uncured Event of Default hereunder at the time of exercise of the option or at the beginning of any extension term and (3) Operator shall accept the option in writing within ten (10) days of notice from the City or Agreement Administrator. In the event that Operator fails to timely notify Agreement Administrator in writing of its acceptance of the Renewal Term, as applicable, in the manner provided herein, then Operator shall have waived or forfeited its right to extend this Agreement for any Renewal Term and this Agreement shall expire on the Expiration Date. The Initial Term and the Renewal Term shall be collectively referred to as the “**Term**”.

(a) Notwithstanding any language contained herein, this Agreement is terminable at will by the Commissioner or his/her/their designee in his/her/their sole and absolute discretion at any time upon twenty-eight (28) days’ notice (“**Termination Notice**”) provided that

such termination shall not be arbitrary or capricious, and such termination shall be effective immediately upon the termination date stated in the Termination Notice to Operator. The Commissioner, Agreement Administrator, the City, and their respective officers, employees and agents shall not be liable for damages to Operator in the event that this Agreement is terminated by Commissioner as provided for herein.

(b) Operator expressly waives any and all claims for compensation, loss of profit, or refund of its investment, if any, or any other payment whatsoever, in the event this Agreement is terminated by Commissioner sooner than the fixed term because JRB is required for a public purpose, or because the Agreement was terminated or revoked for any reason as provided herein.

(c) This Agreement may be suspended for any reason, including but not limited to acts of governmental authorities and/or other applicable Force Majeure activities (“Suspension”), with written notice from Agreement Administrator (“Notice of Suspension”). Suspension may be partial or whole and shall be immediately effective upon the commencement of the Suspension date set forth in the Notice of Suspension mailing or hand delivery thereof or on immediate notice in the event of an emergency or anticipated emergency. In the event of a Notice of Suspension, Operator shall suspend or limit such operations as noted in the Notice of Suspension. During the period of any Suspension which materially interferes in the operation of the facility, the Retention Payment shall abate commensurate to the size of Suspension or limitation. The City will work in good faith to minimize the disruption and duration of any Suspension. The duration of any Suspension period that materially interferes with the aeronautical and/or maritime operations of JRB, shall not count toward calculating the duration of the Term; for example, if there is a six (6) month Suspension, the Term stops and is restarted at the end of the Suspension period. Notwithstanding the above, only a duration of a Suspension period which materially interferes with the construction of the Initial Term Improvements will impact the eVTOL Deadline and Marine Highway Project Improvement Deadline. Further notwithstanding the above, Total Flight Restrictions to the airspace do not automatically qualify as a Suspension or event entitling Operator to an abatement of Retention Payments.

(d) It is expressly understood by Operator that no land, building, space, improvement, or equipment is leased or otherwise conveyed to Operator. Except as herein provided, Operator has the right to occupy and operate JRB and to continue doing so only so long as no Event of Default is outstanding hereunder and/or so long as this Agreement has not expired or is not terminated or suspended by Commissioner or his designee as provided herein.

Section 2.02 Scope of Services. Subject to the terms herein, Operator shall operate JRB (i) primarily as a public use heliport for aerial use, including but not limited to Aircraft, (ii) secondarily as last-mile marine micro-distribution facility and (iii) for any other purpose consistent with the terms of this Agreement. Operator shall perform or cause to be performed, the services required for such operation, as set forth in the Aviation Operations and Maintenance Plan attached hereto as **Exhibit F**. Operator shall operate and maintain JRB in a clean, efficient, orderly, safe and operational condition in conformity with all applicable Laws, including Department of Environmental Protection (“DEP”) and FAA directives, regulations and restrictions. Operator must also remain engaged with the relevant authorities and flexible to evolving requirements and guidance. Operator will conduct its operations, and use commercially

reasonable efforts to cause its Licensees to conduct their operations, in a manner that is responsive to directives of the City and Agreement Administrator, and shall confer with the community surrounding JRB and the users of JRB, and cooperate with the City and Agreement Administrator in resolving community complaints and concerns. Operator's services shall include, but not be limited to, the following:

(a) Aviation Services. Operator shall perform the following services in connection with the operation of JRB:

- (i) receipt and dispatch for landings and take-offs of Aircraft owned or operated by corporations, Persons or air carriers engaged in the air transportation of passengers, baggage and cargo and in connection with police, medevac, emergency or military services;
- (ii) boarding, deboarding, or transfer of such passengers and loading or unloading of baggage/cargo;
- (iii) provide access to parking spaces for employees and necessary service vehicles;
- (iv) accommodation of passengers, flight crews and baggage, including provision of associated heliport terminal services and amenities;
- (v) instruction of all such persons and parties to become familiar with safety rules and policies prior to entering JRB;
- (vi) provide and store fuel only for incoming/outgoing Aircraft operating at JRB;
- (vii) provide eVTOL charging for incoming/outgoing eVTOLs operating at JRB;
- (viii) accommodate, as appropriate, scheduled and nonscheduled flights on a legally non-discriminatory basis that is fair, safe and commercially reasonable;
- (ix) provide a dedicated rest area solely for pilots and crew separated from the passenger vicinity;
- (x) provide at least one (1) staff member trained and certified by the TSA as the Airport Security Coordinator ("ASC"), according to TSA regulations. The ASC must be available during JRB's operating hours;

- (xi) provide such other aviation related services as may be reasonably requested or approved in writing by the City or Agreement Administrator from time to time;
- (xii) provide in all operating or license agreements with all Licensees using JRB for aviation purposes, that such Licensees will comply with the listed flight route limitations, as applicable, and ensure that all flights for tour purposes leaving from or coming into JRB (i) shall not undertake any routes other than those set forth in the 2010 Helicopter Sightseeing Plan (attached hereto as **Exhibit I**), as modified to remove the Yankee Stadium routing and as may be further modified from time to time, (ii) shall not fly over Staten Island while conducting Tourist Flight Operations, (iii) shall not fly over Governors Island before the Tourist Flight Operations begin and after the Tourist Flight Operations end even if transitioning to and from JRB, and (iv) provided it is for tour purposes leaving from or coming into JRB, shall make best efforts, working in coordination with the air traffic control towers at Newark International Airport and LaGuardia, to fly at maximum altitudes permitted under FAA rules while en route to JRB from facilities outside New York City (the “**Authorized Routes**”) and impose fines and/or penalties for violations of the foregoing, as well as possibly terminate such operating or license agreements. Operator shall monitor, report and use commercially reasonable efforts to cause such Licensees compliance with Authorized Routes;
- (xiii) in addition to Section 2.02 (xii) above, incentivize all other flights (other than tourist flights which are at a minimum limited to the 2010 Helicopter Sightseeing Plan, per Section 2.02 (xii)) from leaving from or entering JRB to avoid flying routes over land, including piers, and at maximum altitudes to the extent permissible under FAA rules, wherever possible
- (xiv) actively promote technologies to further mitigate Aircraft noise, reduce emissions, and promote fuel efficiency, and use commercially reasonable efforts to implement any such technology at JRB as it becomes FAA certified and commercially feasible at the sole cost and expense of the Operator, including but not limited to newer and quieter Aircraft as further described in Exhibit D;
- (xv) incentivize use of greener technology at JRB including but not limited to newer and quieter Aircraft and in general accordance with an incentivization plan attached hereto as Exhibit D with an ultimate goal of transitioning general Aircraft use to eVTOL use, subject to market availability on commercially reasonable acceptable terms;

- (xvi) make good faith efforts to prevent Aircraft at JRB from idling for a period greater than ten minutes; and
- (xvii) provide storage, parking and tie down areas for Aircraft.

(b) Supplementary Aviation and Support Functions. In a manner consistent with sound aviation operating and safety practices, Operator shall:

- (i) operate and manage aviation fuel stored at JRB having due regard for the operational requirements of the users of such products at JRB;
- (ii) operate and manage eVTOL charging;
- (iii) operate and manage the landing pad areas for the benefit of users thereof;
- (iv) expeditiously remove or cause to be removed snow and ice, using sand or other salt substitutes, from all active landing pads, parking spaces and access ramps;
- (v) clean and remove all foreign objects from all landing pads, ramps and parking areas;
- (vi) implement customer service mechanisms as approved by Agreement Administrator;
- (vii) have the right to provide such other reasonable services, so long as they do not interfere with JRB operations, are outside of flight hours, are non-permanent in nature, comply with the Law and are consistent with good heliport, heliport terminal, FAA standards (including crash, fire and rescues operations and security measures), fixed based operators, aviation facility and commercial management practices as approved by City and Agreement Administrator, , which approval(s) shall not be any indication of compliance with applicable laws or form and substance of documents (Operator is responsible for obtaining all associated permits/licenses and for all associated costs, and for doing its own due diligence regarding compliance with requirements of applicable Laws);
- (viii) cooperate with Agreement Administrator and the City during special events and unanticipated events, including landing and take-offs for essential or emergency medical services and high-level governmental officials and dignitaries in accordance with the rate schedule attached to this Agreement as **Exhibit H**;

- (ix) maintain and repair JRB's fire suppression system as required by the National Fire Code, as well as provide updates to these systems and submit monitoring plans as directed by Agreement Administrator;
 - (x) comply with all current and future aviation rules as set forth by the FAA through the entirety of the Term; and
 - (xi) maintain accurate logging of all feasible information regarding aviation flights arriving at and departing from JRB and share with Agreement Administrator on a monthly basis. Such information shall include but not be limited to: Aircraft type, tail number, type of flight, e.g., tour, charter or emergency, etc., number of passengers, fees charged, time spent at JRB, and Aircraft owner/operator.
- (c) Aviation and Ancillary Monitoring Services. Operator shall:
- (i) establish and maintain a system approved by Agreement Administrator to monitor air quality on a monthly basis in the vicinity of JRB for the duration of the Term. All expenses associated with such monitoring system are to be borne by the Operator. At its own expense, Operator will hire an unbiased industry consultant with relevant expertise to review and evaluate current air quality at the site including but not limited to implementing air quality tracking, analysis, and reporting, as approved by Agreement Administrator. The Operator shall deliver monthly readings to the City Council as outlined in **Exhibit G** with a copy to Agreement Administrator at the following addresses: (1) to the City Council at New York City Council, City Hall, New York, NY 10007, Attn.: Chief of Staff; (2) to Agreement Administrator at NYCEDC, 1 Liberty Plaza, New York, NY 10006, Attn.: Director of Aviation;
 - (ii) provide weekly complaint review and monthly reports on Aircraft noise complaints across the City to Agreement Administrator and the City Council in form and substance as reasonably approved by Agreement Administrator in consultation with the City Council, which report template will be amended and attached hereto as Exhibit G-1. Such reports shall include a summary and analysis of the 311 complaints including a weekly investigation to determine whether a violation under this Agreement occurred. If violation(s) have occurred, actions taken to correct the violation(s) shall be included in the report;
 - (iii) employ technology which tracks all flights including but not limited to all flights that land at JRB, JRB originating flights and JRB associated flights, and provide such information in flight tracking reports ("Flight Tracking Report(s)"), prepared by an authorized impartial party, to Agreement Administrator at 1 Liberty Plaza, New

York, NY 10006, Attn.: Director of Aviation, and The New York City Council (“City Council”) at City Hall, New York, NY 10007, Attn.: Chief of Staff by the tenth (10th) day of each month during the Term of this Agreement which format, as may be amended from time to time, is approved by Agreement Administrator and include but not be limited to: (a) aircraft flight track data within a 30-mile radius around JRB (with coverage between MMU and FRG) breaking down flights by date/time, tail numbers, and aircraft owner, (b) a comparison to the relevant monthly maximum number of flight operations set forth in Section 2.03 and (c) the number and locations of any deviations of Tourist Flight Operations from the Authorized Routes (noted on the Helicopter Sightseeing Plan) which result in flights over land or piers, including land or piers on Governors Island and Staten Island. Agreement Administrator shall commission and the Operator shall pay for all Flight Tracking Reports and related services;

- (iv) upon receipt of written request from Agreement Administrator, and at the Operator’s sole cost and expense, Operator shall deliver to Agreement Administrator data regarding the electricity consumed in the operation of the Premises (the “Energy Data”) for purposes of regulatory compliance, manual and automated benchmarking, energy management, building environmental performance labeling and other related purposes, including but not limited, to the U.S. Environmental Protection Agency’s Energy Star rating system and other energy benchmarking systems. The Operator shall use commercially reasonable efforts to utilize automated data transmittal services offered by utility companies to access the Energy Data;
- (v) require noise mitigation through techniques further described in Exhibit L entitled “Noise Mitigation and Other Issue Procedures”;
- (vi) establish and maintain a system approved by the Agreement Administrator to measure and track greenhouse gas (“GHG”) emissions from all operations including from the terminal building and all flights and maritime movements departing from the Site. Although exact reporting requirements will be determined jointly with the Operator, resources and guidance will likely be drawn from existing work from organizations including Airports Council International (ACI), the International Civil Aviation Organization (ICAO) and the Airport Cooperative Research Program (ACRP).

(d) Berthing Services.

- (i) the Operator shall provide (either directly or by facilitating the provision of such services by third parties) secondary waterborne freight services to the extent the same do not both interfere with the

aviation services, expand outside the parameters laid out in the EAS (the “**Berthing Services**”) and are in accordance with all of the provisions of this Agreement, including, without limitation, all exhibits attached hereto and the “**Berthing Plan**” as attached hereto as Exhibit B, which are hereby incorporated and made a part of this Agreement. The Operator shall be responsible for providing all staffing, access and associated equipment and services necessary to provide all Berthing Services;

- (ii) in performing the Berthing Services, the Operator and its contractors, employees and agents shall comply with all Laws, including, without limitation, the applicable written policies of the City, Agreement Administrator, the New York City Department of Transportation (“**NYCDOT**”), the New York State Department of Transportation (“**NYSDOT**”), and the provisions of the National Labor Relations Act (“**NLRA**”). The Berthing Services shall not interfere with the navigational operation of the Staten Island Ferry, the NYC Ferry Service (the “**NYCF**”) or with law enforcement operations of the United States Coast Guard or any other governmental agency with jurisdiction over the Berthing Services or the Operator. The Operator’s personnel shall cooperate with personnel of the City and the Agreement Administrator. Except where the captain or a port captain of Operator has determined that a condition exists that makes it unsafe or impossible to operate the vessels and aircraft, the Operator shall not make any changes in the Berthing Services without prior approval in writing from the Agreement Administrator, which such approval shall be granted in the City’s reasonable discretion;
- (iii) at no time shall the Berthing Services interfere with the aviation services provided hereunder;
- (iv) six months prior to the Marine Highway Project Improvements Deadline, the Operator shall provide a more extensive Berthing Plan for the Berthing Services for the Agreement Administrator’s initial review and comment. The Agreement Administrator will provide comments thereto within thirty (30) days upon receipt. The Operator shall have forty-five (45) days following receipt of the Agreement Administrator’s comments to incorporate such comments and provide a final draft of the Berthing Plan for the Agreement Administrator’s approval, such approval to be granted in the City’s and/or Agreement Administrator’s reasonable discretion. All modifications of the Berthing Plan must be approved by Agreement Administrator;
- (v) the Operator shall build out or cause to be built out the Improvements including but not limited to those necessary to facilitate the Berthing

Services, as further described in Exhibit B. Solely in its capacity as proprietor of JRB, the City will cooperate, within reason, in Operator's efforts to obtain permits for construction of the Berthing Services related Improvements;

- (vi) operate and maintain equipment for the Berthing Services in a first class manner; and the Operator shall provide Berthing Services to all secondary waterborne freight vessels that request such services, as appropriate, and shall establish and publish a schedule of fees associated with such use.
- (e) Last Mile Freight Delivery Services.
- (i) the Operator shall provide (either directly or by facilitating the provision of such services by third parties) last mile freight delivery in connection with the secondary waterborne freight services to the extent the same do not both interfere with the aviation services, expand outside the parameters laid out in the EAS and are in accordance with all of the provisions of this Agreement ("**Last Mile Freight Delivery Services**"), all as provided in Exhibit B attached to this Agreement (the "**Last Mile Freight Delivery Services Plan**"). The Operator shall be responsible for providing all staffing, access and associated equipment and services necessary to provide all Last Mile Freight Delivery Services;
 - (ii) in performing the Last Mile Freight Delivery Services, the Operator and its contractors, employees and agents shall comply with all Laws, including, without limitation, the applicable written policies of the City, Agreement Administrator, the New York City Department of Transportation ("**NYCDOT**"), the New York State Department of Transportation ("**NYS DOT**"), and the provisions of the National Labor Relations Act ("**NLRA**"). The Operator's personnel shall cooperate with personnel of the City and the Agreement Administrator. The Operator shall not make any changes in the Last Mile Freight Delivery Services and Last Mile Freight Delivery Services Plan without prior approval in writing from the Agreement Administrator, which such approval shall be granted in the Agreement Administrator's reasonable discretion;
 - (iii) at no time shall the Last Mile Freight Delivery Services interfere with the aviation services provided hereunder;
 - (iv) All modifications of the Last Mile Freight Delivery Services Plan must be approved by Agreement Administrator;

- (v) build out the Improvements including but not limited to those necessary to facilitate the Last Mile Freight Delivery Services, as further described in Exhibit D. Solely in its capacity as proprietor of JRB, the City will cooperate, within reason, in Operator's efforts to obtain permits for construction of the Last Mile Freight Delivery Services related Improvements;
- (vi) operate and maintain equipment for the Last Mile Freight Delivery Services in a first class manner; and the Operator shall provide Last Mile Freight Delivery Services to all secondary Last Mile Freight Delivery Services providers that request such services, as appropriate, and shall establish and publish a schedule of fees associated with such use.

(f) Maintenance and Repair Services. Subject to the requirements and conditions set forth in Article IV hereof, including but not limited to City's responsibility for the Substructure, Operator shall maintain and repair (structurally and otherwise) and repaint as appropriate for maintenance or appearances in a good, workmanlike manner:

- (i) all surface areas including paved landing areas, including maintenance and repair of the surface of the Barge and pier, all lights on the Barge and pier, markings and striping, and all navigational aids; any changes to the exterior lighting will be subject to Agreement Administrator's reasonable prior written approval.
- (ii) all vehicles, equipment, machinery and tools provided by the Operator; and
- (iii) JRB grounds (including, without limitation, the terminal facilities, all walkways, perimeter fences, grass cutting and removing trees and shrubs where and when necessary) and all buildings, structures and fixtures located at JRB including, without limitation, fuel tanks, plumbing, electrical, sprinkler, heating and air conditioning systems, signs, apparatus, Barge, berthing infrastructure (excluding the Substructure) and equipment, except where this Agreement provides any such items are to be repaired or maintained by the City.

(g) Janitorial Services. The Operator shall provide all janitorial services for JRB including the cleaning and removal of all waste, garbage, refuse, rubbish and litter from the site. The Operator must provide adequate waste and recycling receptacles, approved by Agreement Administrator, and have these receptacles emptied on a daily basis and removed by a private carter. The Operator must comply with all City, state, and federal recycling regulations. Rubbish removal schedules are subject to Agreement Administrator's reasonable approval. The Operator shall keep all site signs and structures in good condition and free of graffiti.

(h) Pest Control Services. The Operator shall provide regular pest control inspections and extermination. To the extent that the Operator applies pesticides to any property

at the site, the Operator or any subcontractor hired by the Operator shall comply with Chapter 12 of Title 17 of the New York City Administrative Code, as may be amended from time to time.

(i) Cooperation and Community Relation Services. Operator shall:

- (i) confer with the City and the Agreement Administrator when requested and attend meetings with City and/or Agreement Administrator officials and other persons as reasonably requested by the City and/or Agreement Administrator to discuss matters relating to JRB; and
- (ii) confer and cooperate as required with representatives of the communities affected by JRB operations, including issues involving noise complaints, and provide reasonable mechanisms for addressing and responding to same.

(j) City Capital Projects Cooperation. The Operator shall cooperate with Agreement Administrator and City agencies in their implementation of capital projects, whose footprint overlaps with that of JRB's, have already begun or will begin construction during the Term of the Agreement, some of which may be further described and listed in Exhibit Q. Such cooperation shall include permitting takeoff and landing of City agency Aircraft in connection with such capital or municipal projects at no cost. If such capital or municipal projects should materially disrupt operations, the Operator, NYCEDC and the City will work together to mitigate revenue loss as is possible and determine whether a Suspension along with an equitable adjustment of Retention Payments is necessary or appropriate.

Section 2.03 Right to Operate. Subject to all Laws and necessary regulatory approvals and in accordance with the provisions of this Agreement, the City grants Operator the exclusive right to operate JRB (i) primarily, as a public use heliport for aerial use, including but not limited to Aircraft, and (ii) secondarily, as last-mile marine micro-distribution facility with Berthing Services and Last Mile Freight Delivery Services, subject to all necessary regulatory approvals for which the City and NYCEDC agree to provide reasonable cooperation, including but not limited to support of an application for improvements to the appropriate municipal agencies as owner of JRB to the extent necessary for permitting or authorization. Notwithstanding such cooperation and support, Operator shall be responsible for all costs. Operator acknowledges that this Agreement does not convey or transfer a real property interest, but rather shall be deemed to be an agreement by the City to allow Operator to enter and operate facilities at JRB to perform the services that are the subject of this Agreement.

(a) Subject to the provisions of this Agreement, Operator shall have the exclusive right and duty to manage, direct and control JRB and to enter into license or operating agreements with Licensees without interference by nongovernmental third parties; provided, that Operator shall not enter into any contracts or other agreements relating to JRB that extend past the Term of this Agreement. All such agreements must be terminable upon a twenty-eight (28) day notice period and subject to the approval of Agreement Administrator which approval shall not be

unreasonable withheld, conditioned or delayed. Such approval shall be for the limited purpose of confirming compliance with the terms herein.

(b) Operator may, at its sole risk and expense, construct or relocate aviation-related facilities and infrastructures within JRB subject to prior review and written approval by Agreement Administrator of Operator's plans as and to the extent required under Section 4.05(h) hereof. All facilities constructed by Operator hereunder, Improvements made thereon, or Improvements made to existing premises by Operator shall be made in compliance with all Laws, and shall, at the option of the City, be owned by the City as part of JRB except as provided in Section 4.05(e) hereof.

(c) Operator shall not unlawfully discriminate against any person or entity in the operation of JRB.

(d) The City or Agreement Administrator may reasonably preclude certain types of Aircraft during certain hours of operation except to the extent prohibited by Law(s). Operator must operate JRB only during the hours set forth below:

- (i) Monday through Friday to 8:00 a.m. to 9:00 p.m.; Tourist Flights from 10:00 a.m. to 5:00 p.m. only
- (ii) Saturdays from 9:00 a.m. to 5:00 p.m.; Tourist Flights from 10:00 a.m. to 5:00 p.m. only; and
- (iii) Sundays from 10:00 a.m. to 5:00 p.m.; no Tourist Flights

Notwithstanding the above, the hours may be increased at the sole discretion of the City and/or Agreement Administrator and JRB may be used for emergency landings and take-offs at any time. Emergency landings and take-offs shall be those (i) used by any emergency service of any level of government (e.g., police, fire, military), (ii) used by non for profit organizations providing volunteer essential and emergency medical services, (iii) used for time-critical medical treatment purposes, (iv) used in addressing any condition(s) where a threat to human life or safety or damage to property is present or imminent, and/or (v) by operators experiencing in-flight mechanical difficulties.

(e) Operator will not allow Tourist Flight Operations at JRB to exceed in aggregate 29,650 flights per year and a per month limit as outlined in Exhibit M ("Tourist Flight Limits") and will include provisions to that effect in its operating or license agreements with Licensees conducting Tourist Flight Operations as well as penalty and termination provisions for violations of the Tourist Flights Limits. Notwithstanding the above, upon (i) FAA certification of regular commercial operations at JRB which certification of operations shall allow for paying passengers for eVTOL aircraft and (ii) (x)written request from Operator asking for an increase in the Tourist Flight Limits and (y) demonstration of proof of the FAA certification and 50% replacement of helicopter tours with eVTOL tours to date, provided the increase in Tourist Flight Limits does not materially impact the quality of life of New Yorkers, Agreement Administrator will in its reasonable discretion increase the Tourist Flight Limits for eVTOLs only to a reasonable amount agreed upon by Operator and Agreement Administrator which increase may require further municipal approvals.

(f) The City reserves the right to reduce the maximum number of Tourist Flight Operations by up to an additional 50% for any or all of the remainder of the Term if:

- (i) Tourist Flight Operations in any given month exceed the level for that month set forth in this Section; or
- (ii) on more than five (5) occasions in any twelve (12) month period, other than in cases of emergency or commercially reasonable safety concerns, Tourist Flight Operations cross over land or piers, including those lands or piers on Governors Island or Staten Island, and are documented as having done so by an independent professional commissioned by the Agreement Administrator and paid for by the Operator.

Operator will monitor and use commercially reasonable efforts to enforce such limitations. Upon written request by Operator to Agreement Administrator for extension of time to cure after the occurrence of (i) and (ii), provided the Operator demonstrates evidence satisfactory to Agreement Administrator in its reasonable discretion of good faith efforts made to correct and prevent continuance of (i) and (ii) within forty-five (45) days of violation thereof, the Agreement Administrator/City may decide to delay or forgo its right to reduce the maximum number of Tourist Flight Operations by an additional 50% for any or all of the remainder of the Term but may reconsider in the event there are additional occurrences. Upon each additional occurrence of the facts set forth in subparagraph (i) or (ii) above, pursuant to the terms herein, the City shall have the right to reduce the then maximum number of Tourist Flight Operations by up to an additional 50%. Notwithstanding the above, if the multiple occasions noted in (ii) above occur in a time span of three (3) days by the same sub-operator, and Operator timely cures the continuation of such occurrences, for purposes of (ii), the violations shall be considered one occurrence.

(g) Operator will not permit doors-off operations; they are strictly prohibited and operating or license agreements will include such prohibition.

Section 2.04 Limitations on Grant to Operate.

(a) The grant of rights in Section 2.03 is specifically subject to all of the following:

- (i) Property Encumbrances. Any rights to perform services at JRB are encumbered by encroachments, licenses, or other occupancies at JRB as of the Commencement Date. Neither the City nor Agreement Administrator is obligated to take any action to remove the same unless such encroachments, licenses, or other occupancies (not to including squatters) restricts or materially affects the ability of JRB to reasonably function in accordance with the terms of this Agreement including the operation, maintenance and/or improvement of JRB, imposes any cost on the Operator in the

operation, maintenance or improvement of JRB and/or binds the Operator to any financial obligation.

- (ii) Ancillary Agreements. Except for agreements covered by Section 2.03(a), Operator may not enter into any agreements that permit a third party to use or operate any portion of JRB, through consultant agreements, side letters, and the like (each, an “**Ancillary Agreement**”) except by written consent of Agreement Administrator or the City, which shall not be unreasonably withheld, conditioned or delayed. The foregoing notwithstanding, Operator may, subject to the conditions below, with prior written notice to Agreement Administrator, enter into Ancillary Agreements relating to the use or occupancy of JRB and/or to the provisions of services at JRB with aviation fuel providers, Aircraft owners or operators, Aircraft maintenance service providers, or others directly involved in the providing of services at JRB, including but not limited to the Berthing Services and Last Mile Freight Delivery Services without the consent of the City or the Agreement Administrator. In all cases, Ancillary Agreements:
- (A) shall be subordinate and subject to the terms and conditions of this Agreement, shall not extend past the Term of this Agreement and must be terminable upon the earlier of twenty-five (25) days’ notice and the terms of Section 2.01(b);
 - (B) shall not purport to license, lease, or convey any real property interest in JRB;
 - (C) shall require compliance with all Laws and the terms and conditions herein as well as having Aircraft, as applicable, display their tail numbers both physically on the aircraft and viewable on Automatic Dependent Surveillance-Broadcasts (ADS-B) systems;
 - (D) shall provide for insurance and indemnification of the City and Agreement Administrator to the same extent as required under this Agreement (but the foregoing shall not require any insurance that is already provided by Operator);
 - (E) shall not relieve Operator of any obligations or duties imposed on it by this Agreement;
 - (F) shall not provide for any discounts which are discriminatory or violate applicable Laws; and

- (G) copies thereof shall be provided to Agreement Administrator at least ten (10) Business Days before the commencement of their term.
 - (iii) Security Plans. Operator shall operate JRB according to a security plan approved by Agreement Administrator, which security plan shall be consistent with industry best practices and all applicable Laws, and which security plan may be amended from time to time in accordance with changes in such industry best practices and Laws, including but not limited to those of the United States Department of Homeland Security. City and Agreement Administrator reserve the right to inspect JRB during business hours in order to ensure the Operator's compliance with its security manual and plan.
 - (iv) Discount Policies. Operator shall prepare formal written discount policies, including the basis for such discounts. Such discount policies shall be non-discriminatory and comply with all applicable Laws.
- (b) Traffic and Access Limitations. Operator acknowledges and agrees to comply with the following limitations and restrictions on vehicle traffic and access in and to JRB:
- (i) ingress and egress of all vehicles including but not limited to bicycles, eQuads and electric vans used for commercial, including freight, purposes (hereinafter, "**Vehicle(s)**") to JRB shall be through the gate on the service road east of the FDR Drive and in compliance with the traffic parameters as set forth in the EAS and any applicable City Environmental Quality Review Environmental Assessment Statement;
 - (ii) Agreement Administrator, at its reasonable discretion, may require Operator to comply with reasonable additional Vehicle traffic and access limitations to accommodate use of said service road. Operator acknowledges that the City, or any state or federal agency may impose additional measures that delay or divert Vehicle traffic in the immediate vicinity of JRB, provided that such additional limitations and measures shall not unreasonably impede access to JRB; and
 - (iii) ingress and egress of all motor and micro distribution freight shall comply with the traffic parameters as set forth in the EAS.
- (c) Right to Inspect/Repair. Inspectors from Agreement Administrator and the City may visit JRB unannounced to inspect operations and ensure proper maintenance of JRB as well as compliance with the terms herein. All such inspectors shall be accompanied by a representative of Operator and such inspections shall be subject to Operator's safety protocols. Notwithstanding the above, in the event of an emergency, Inspectors from Agreement Administrator and the City may visit JRB without notice and without being accompanied by a

representative of Operator. Based upon their inspections, Agreement Administrator and/or the City may issue written directives regarding deficiencies which must be rectified in a timely manner as reasonably determined by the Agreement Administrator. Agreement Administrator may, at its option, after notice and a reasonable opportunity to cure except in the event of an emergency or to address imminent safety concerns, enter JRB and correct any deficiencies (including repairs) that are not timely rectified and deduct the cost of same from the Security Deposit. Operator shall pay the Agreement Administrator a one thousand dollar (\$1,000) administrative fee for each deficiency that the Agreement Administrator is required to rectify separate and apart from the Security Deposit. Continued occurrence of such deficiencies (as determined in Agreement Administrator's reasonable discretion) shall constitute an Event of Default under Article VII of the Agreement. Any deduction from the Security Deposit shall be replenished by Operator within ten (10) days of the deduction. The Agreement Administrator and the City reserve the right to enter JRB to inspect and/or make repairs to the piles and decking and shall make good faith efforts so that entry does not materially interfere with operations at JRB. Except for gross negligence or intentional tortious acts or omissions, inspection of JRB by Agreement Administrator and/or the City shall not give rise to any liability-based claim by Operator against the Agreement Administrator and/or the City.

(d) Advertisement. The Operator is prohibited from placing advertisements on the site without first obtaining Agreement Administrator's approval, which will not be unreasonably withheld, conditioned or delayed. Any and all signage is subject to Agreement Administrator's approval and all applicable Laws. Agreement Administrator's approval shall not constitute compliance with all applicable Laws.

(e) Film Shoots, Fashion Shows and Green Markets. The Operator is prohibited from allowing any uses (unless otherwise provided herein) including but not limited to film shoots, fashion shows and green markets in and around JRB without first providing notice to Agreement Administrator and evidence of compliance with all applicable rules and regulations. Such uses shall be non-permanent in nature.

(f) Marketing. The Operator must obtain the prior written approval of the City and Agreement Administrator, which approval will not be unreasonably withheld, conditioned or delayed, prior to entering into any marketing or sponsorship agreement.

(g) Tobacco. The selling and/or advertisement of cigarettes, cigars, electronic cigarettes, other tobacco products, or non-tobacco smoking products are strictly prohibited. Smoking of any tobacco product, non-tobacco smoking products, or the use of electronic cigarettes is strictly prohibited at JRB.

(h) Food and Beverage Services

(i) Vending Machines. Subject to Executive Order 8 and successor related legislation, the Operator may, with Agreement Administrator's approval, install, operate and maintain vending machines or engage a third party to do so. With regard to any vending machines at JRB, Operator agrees to comply with the Citywide Beverage Vending Machines Standards and Standards for Food Vending Machines (together, the "Citywide Food and Beverage

Standards”), attached hereto as **Exhibit R**. Operator shall remove any vending machine at the direction of the Commissioner. In addition, Operator acknowledges that the Citywide Food and Beverage Standards may be changed during the Term of this Concession. In the event that Operator has installed or hereinafter installs any vending machines anywhere at JRB, the Operator will be required to comply with any new and/or changed Citywide Food and Beverage Standards in the operation of all vending machines at JRB. If Operator fails to comply with any new and/or changed Citywide Food and Beverage Standards, as directed by the Agreement Administrator and/or the City, Operator shall remove the vending machines from JRB.

(i) Notice of Surrounding Work. To the extent that the City and/or Agreement Administrator have advance notice, the City and/or Agreement Administrator will make reasonable efforts to provide reasonable advance notice to Operator of any construction or other work including but not limited to the anticipated Financial District Coastal Resiliency Project, on the FDR overpass or other area immediately surrounding JRB that may interfere with JRB operations. To the extent such work materially interferes with the operations at JRB, Retention Payments will be equitably adjusted.

(j) City Use. The City shall have the right to use the facility, subject to availability, for non-aeronautical uses free of charge during non-operating hours, under specific circumstances, and with short-term notice. The City shall be responsible for all actual costs incurred as a result of its use and operation and any resulting damage. The City shall have the right to use the facility for non-aeronautical or aeronautical uses free of charge during operating hours at a reasonable time to be agreed to by Operator and Agreement Administrator, under specific circumstances such as events promoting aviation and/or sustainability. The City shall be responsible for all actual costs incurred as a result of its use and operation and any resulting damage.

(k) Rules, Regulations and Policies. Operator agrees to comply and cause its employees and agents to comply with all Laws including but not limited to the NYC Zoning Resolution, and to comply with all Laws and orders of any City, state or federal agency or governmental entity having jurisdiction over operations of this Agreement, JRB and/or Operator’s use and occupation thereof and any orders set forth herein.

ARTICLE III

FEES AND PAYMENTS

Section 3.01 Revenue Collection and Payment. In consideration for the performance of operation services hereunder, the Operator shall have the sole and exclusive right to collect all revenue derived from its operation of JRB and the duty to pay to the City Retention Payments through Agreement Administrator in the following manner:

(a) Revenue Collection. Operator shall make commercially reasonable efforts to collect all revenues as are payable to Operator or an Affiliate of Operator, in accordance with GAAP, generated from, or in connection with any and all services and/or operations provided by Operator at JRB, including, without duplication, Gross Receipts. Such commercially reasonable efforts to collect revenues shall, subject to the next sentence, include but not be limited to collecting payables due utilizing all available remedies, including but not limited to, termination of services or agreements with non-paying parties. For the avoidance of doubt, without being prohibited, such duty shall not require litigation or incurring other collection costs provided other effective means are used and Retention Payments are made timely. If Operator or any Affiliate thereof operates any of its own aircraft at JRB, there shall be imputed as Gross Receipts an amount equal to landing and take-off fees, aircraft handling fees, fuel fees and aircraft storage fees as would then be charged by Operator to a non-affiliated operator in an arm's length transaction. Gross receipts shall exclude the amount of any federal, state or City taxes which are paid by the Operator.

(b) Payment of Fees. Operator shall remit retention payments (“**Retention Payments**”) to Agreement Administrator as set forth in Exhibit E. Retention Payments shall be paid in equal installments on the first day of every month during the Term of this Agreement starting on the Commencement Date. If the Commencement Date occurs on a date which is other than the first day of a calendar month, the Administrative Fee shall be pro-rated and such amount paid with the next payment being the full monthly installment on the next first day of the calendar month. Such payment shall be due without notice until the Term expires.

(c) Security Deposit. Operator shall provide Agreement Administrator with a Security Deposit for the duration of the Agreement. Such Security Deposit shall be in the amount of at least 25% of the highest year's Minimum Annual Guarantee as shown in the fee schedule attached hereto as Exhibit E which will be required for the duration of the Term. The Security Deposit will be due upon the signing of the Agreement in the amount of \$804,278.00 and increased at the beginning of each Term to reflect 25% of the highest year's Minimum Annual Guarantee of the renewed Term as shown in the fee schedule attached hereto as Exhibit E which will be required for the duration of the renewed Term. Agreement Administrator may draw down on the Security Deposit for any non-payment or late payment of Retention Payments. The Operator shall replenish any draw down funds or replace the letter of credit, as applicable, within thirty (30) days of any draw down detailed in the Agreement. Failure of Operator to replenish the Security Deposit or replace the letter of credit, as applicable, within thirty (30) days of any draw down detailed in the Agreement shall constitute an Event of Default. In any termination of this Agreement, the unapplied portion of the Security Deposit shall be returned to Operator within ninety (90) days of such termination, except as expressly set forth in Section 7.03.

(d) Payment Due Dates. If any payment under this Agreement is due on a holiday, Saturday or Sunday, the payment shall be made on the first business day following the holiday, Saturday or Sunday.

(e) Late Payment Penalty. If Operator fails to remit the Retention Payments in full by the date due, interest shall accrue on any unpaid amounts at five percent (5%) per annum or the maximum legally permitted rate, whichever is less.

(f) Form of Payment. The Retention Payments and other payments due from Operator shall be paid in lawful money of the United States by check or wire transfer, accepted subject to collection, and payable to the order of Agreement Administrator, or such other entity as is designated in writing by Agreement Administrator.

(g) Payment Address. All payments of the Retention Payments and other payments due from Operator to Agreement Administrator shall be directed to:

NYCEDC
One Liberty Plaza,
14th Floor
New York, NY 10006
Attn: Downtown Heliport Agreement Administrator

or at such other location as Agreement Administrator may from time to time designate by written notice.

(h) No Billing Required. No invoices for the fees or payments described in Article III need be issued by the Agreement Administrator. Operator will submit all payments in respect thereof to Agreement Administrator together with the supporting documentation outlined herein.

(i) Pro-rated Payments. If for any reason this Agreement is terminated or expires prior to any of the foregoing payment dates, Operator shall pay Agreement Administrator the accrued amount up to the date of termination of any Retention Payments or other required payment not then paid or due. Such payment, in the case of the Retention Payments, shall be pro-rated based on the number of Business Days elapsed in the monthly period in which such termination occurs.

Section 3.02 Other Payment Obligations.

(a) Taxes and Assessments. The parties acknowledge that JRB is exempt from real estate taxes, which shall include any payment in lieu of property taxes (“PILOT”). Operator shall promptly pay any license fees or other charges, properly levied or assessed against JRB, the operation of JRB, or against Operator by virtue of Operator’s use or operation of JRB. Other than real estate taxes and PILOT from which JRB is exempt, the Operator shall pay any special assessments levied or assessed against JRB and all taxes and assessments applicable to the operation of the JRB concession.

(b) Utilities, Maintenance and Service. Operator must provide and pay for all utilities including installation of utilities necessary to accommodate the services herein and all sewer charges and for all water, gas, heat and electricity (including impressed current for Barge maintenance) consumed and used at JRB. To the extent permits are required for upgrades, Agreement Administrator will reasonably cooperate in Operator’s efforts to obtain such permits. Operator, at its sole cost and expense, shall maintain and repair all meters and procure all permits, agreements, approvals and licenses necessary to effectuate this provision, and shall provide and pay for all services necessary or convenient for the upkeep or operation of JRB, including but not

limited to garbage and snow/ice removal, vermin extermination, cleaning, fuel storage and supply, and maintenance and repair of all ground surface, storage tanks and hangars. The Operator must remove any unsuitable utility materials as required by Agreement Administrator and upgrade utilities as necessary at its own cost.

Section 3.03 Accounting and Activity Reporting.

(a) Monthly Reporting. Operator shall submit monthly Gross Receipts and operating statements to Agreement Administrator by the tenth (10th) day of the month following each month during the Term of this Agreement in a format and with sufficient details as determined by Agreement Administrator.

(b) Biannual Reporting: Operator shall (every six months) provide updates on any planned maintenance and improvement plans for JRB.

(c) Annual Reporting. Within thirty (30) days after the end of each operating year, as applicable, along with Operator's officer's certificates certifying as to the accuracy of the information and calculations submitted, the Operator must submit a detailed income and expense statement for the past year's operation. The Operator must maintain a revenue control system to ensure the accurate and complete recording of all revenues in a form and manner acceptable by Agreement Administrator.

(d) Books and Records.

(i) During the Term of this Agreement, Operator shall keep at JRB or a convenient location in Manhattan, NY in original or duplicate, full, complete and accurate books of accounts, and full, complete and accurate records of Gross Receipts and Improvements as aforesaid, including daily sales and receipts,

(ii) correspondence, disks, receipts, vouchers and any written agreements entered into by Operator with carriers and other users of JRB including accurate hourly records of aircraft movements (collectively, the "**Information**") pertaining to calculations and revenue statements under this Agreement, which Information shall be collected and maintained in accordance with GAAP to show in detail, to the reasonable satisfaction of Agreement Administrator, the Retention Payments and Gross Receipts from sales made and services rendered on, in and about JRB. Operator, at its own expense, shall preserve such Information for a period of six years or such longer period required under state or federal laws and regulations. The City, Agreement Administrator and the Comptroller of the City of New York ("**Comptroller**") shall have the right at any time during business hours to examine said accounts and records and to make copies thereof, and Operator shall cooperate fully and aid in any examination or audit thereof. All transactions shall be registered and recorded in accordance with industry standard computerized sales recording

devices, and the items thereof shall be posted daily on books of accounts and records that Agreement Administrator shall consider adequate to reveal the true, correct and entire business conducted on, in, or from JRB. Notwithstanding anything in this Agreement, the Operator acknowledges and agrees that the powers, duties, and obligations of the Comptroller pursuant to the provisions of the New York City Charter shall not be diminished, compromised, or abridged in any way.

(e) Confidential Information. Operator agrees that in the course of preparing the statements referred to above, and the City and Agreement Administrator agree that in the course of analyzing the statements, the parties will treat confidentially all information and documents, including passenger manifests, furnished by Aircraft owners, operators, and air carriers utilizing JRB subject to applicable law (such information and documents being collectively referred to as “**Confidential Information**”). Except as otherwise may be set forth within this Agreement, the Operator and the City and Agreement Administrator agrees that each of them respectively will use the Confidential Information solely for the purposes described in this section, and that neither party will use the Confidential Information in any way detrimental to, or to competitive disadvantage of the other party. Operator and the City and Agreement Administrator further agree that such information will be kept confidential (i) by the Agreement Administrator, their respective directors, officials, employees, agents, consultants, and independent contractors and (ii) by Operator and its Affiliates, members, directors, officers, employees, counsel and other representatives (all such persons and entities being collectively referred to as “**Representatives**”) and that, except as may be necessary for the enforcement or defense of the Operator’s, City’s or Agreement Administrator’s rights under this Agreement, neither the parties nor their Representatives will use, publish, divulge, disclose or allow to be disclosed the Confidential Information to any person, firm or entity whatsoever unless the other party consents in writing to the disclosure of such information or a court or other tribunal of competent jurisdiction orders such disclosure or it is otherwise required by applicable law, including but not limited to any Freedom of Information Laws. The City and/or Agreement Administrator agree to inform Operator of any requests they receive for any of the Confidential Information made pursuant to any Freedom of Information Law and to provide Operator with the opportunity to seek an appropriate order preventing the disclosure of any of the Confidential Information prior to making such disclosure. This Section 3.03 (e) shall not apply to the Comptroller or any other authorized auditor nor prevent disclosure by the Comptroller or any other authorized auditor of any information derived from audits of this Agreement.

(f) Certificate and Auditing.

- (i) Operator shall provide (A) monthly operating statements for the operations of JRB (including the monthly Gross Receipts for that month), within 20 days after the end of each applicable month, (B) annual audited statements of Gross Receipts, including revenue categories, segregated from any statements prepared for its parent or other Affiliates, by the ninetieth (90th) day after the end of Operator’s fiscal year, and (C) officer’s certificates certifying as to the accuracy of the information and calculations submitted as part of the revenue documentation described herein. Such monthly and

annual audited statements shall be in a format and with sufficient details as determined by Agreement Administrator and shall include accounting statements, calculated in accordance with GAAP, showing the basis for the Retention Payments and Gross Receipts calculation (including unresolved billing disputes and credit memos), which shall be supported by reasonably detailed written documentation supporting such calculation. In the event that an annual audit reveals that the total Retention Payments due to the City during any fiscal year are greater than the aggregate of Operator's remitted monthly Retention Payments for such fiscal year, then Operator shall promptly pay to the City through Agreement Administrator the difference between the amounts due, and the amounts paid. In the event that an annual audit reveals that the total Retention Payments made to the City were more than were due to the City during such fiscal year, then the City through the Agreement Administrator shall provide a credit of the difference to Operator.

- (ii) Operator shall bear the cost of the preparation and delivery of required operating statements and financial statements and of any auditing. Auditor's certifications shall be submitted to Agreement Administrator with the annual financial statements at the earlier of the end of each calendar year and at the termination or expiration of this Agreement.
- (iii) Operator shall prepare and provide to Agreement Administrator on or about the last day of each month activity reports, which shall include the date of service, the type of service, the fee charged, the number of passengers, dates and fees received for non-aeronautical events and uses and any other relevant information in a form and with sufficient details as approved by Agreement Administrator.
- (iv) The Operator must maintain a revenue control system to ensure the accurate and complete recording of all revenues in a form and manner reasonably acceptable to the City and Agreement Administrator. The Operator is responsible for setting rates, fees and charges consistent with market conditions and applicable laws, however, all rates, fees, fares, prices and any subsequent increases or decreases must be approved in writing in advance by the Agreement Administrator which approval shall not be unreasonably withheld or delayed. Operator shall provide Agreement Administrator with all information reasonably necessary for Agreement Administrator to make a determination as to the appropriateness of the proposed increase. Notwithstanding the foregoing, Operator may increase, on a non-discriminatory basis, the fees it charges for fuel without prior approval from Agreement Administrator, provided that the total increases in said fees together aggregate an increase of less than 25% of the fee (the "Base Fee") charged by the Operator on the

Commencement Date. Prior approval of the Agreement Administrator, in the manner set forth above in this Section 3.03(f)(iv), shall be required for increases in said fees totaling in the aggregate an amount equal to or greater than 25% of the Base Fee. Upon approval by Agreement Administrator of said increase, such increased fee shall be considered the Base Fee. Each subsequent 25% aggregate increase over the Base Fee will be subject to the approval requirements detailed above in this section 3.03(f)(iv).

ARTICLE IV

MAINTENANCE; CAPITAL IMPROVEMENTS

Section 4.01 Management, Operation and Maintenance. Operator hereby agrees to manage, operate and maintain JRB as provided in Section 2.02, **Exhibit F** and as further set forth herein.

Section 4.02 Maintenance of JRB and Equipment.

(a) General. Operator shall be responsible for operating, inspection, maintenance and repair costs for the landing surface, terminal facilities, eVTOL charging, restrooms, and other fixtures on JRB including but not limited to the Barge including the Last Mile Freight Delivery Services, as more specifically set forth in Section 2.02(b) herein. Operator's obligation to maintain JRB shall continue until the Expiration Date. Maintenance and cleaning of restrooms must be performed on a schedule approved by Agreement Administrator. Signs shall be posted by the Operator including contact information with phone number and email if there are any issues with the level of the cleanliness or presence of debris around JRB. The Operator will keep a record of complaints received and respond accordingly. The foregoing notwithstanding, nothing herein shall require Operator to make any repairs, alterations or renovations to the Substructure, which shall remain the responsibility of the City. The Operator shall reasonably cooperate with the City and grant access to the City for all repairs and maintenance to the Substructure. In the event of any damage to JRB caused by the City, Agreement Administrator, or their agents or contractors, the City shall repair or cause to be repaired such damage, at no cost to Operator. If the City or Agreement Administrator fails to maintain the Substructure in reasonably good condition or fails to repair or cause to be repaired damage caused to JRB by the City, Agreement Administrator, or their agents or contractors, Operator may perform the applicable work at the City's reasonable expense provided it shall send by overnight courier written notice in at least twelve (12) point capital letters entitled "NOTICE OF SUBSTRUCTURE OR CITY CAUSED DISREPAIR AND REQUEST FOR AGREEMENT ADMINISTRATOR'S OR CITY'S TO REPAIR OR CONSENT TO OPERATOR'S REPAIR AT THE CITY'S EXPENSE" along with insurance, schedule, scope of repair, applicable permits if any, and contractor to provide services. If Agreement Administrator or the City fail to respond within ten (10) Business Days following the notice and request which response may also include questions, Operator may send a written notice in large bold letters entitled "SECOND NOTICE OF SUBSTRUCTURE OR CITY CAUSED DISREPAIR AND REQUEST FOR AGREEMENT ADMINISTRATOR'S OR CITY'S TO REPAIR OR CONSENT TO OPERATOR'S REPAIR AT THE CITY'S EXPENSE. IF AGREEMENT ADMINISTRATOR OR CITY FAILS TO

RESPOND WITHIN TEN (10) BUSINESS DAYS AFTER RECEIPT OF THIS NOTICE AND REQUEST, THEN THE MATTER PREVIOUSLY SUBMITTED TO AGREEMENT ADMINISTRATOR OR CITY FOR ITS REVIEW AND CONSENT AND TO WHICH AGREEMENT ADMINISTRATOR OR THE CITY HAS FAILED TO TIMELY RESPOND SHALL BE DEEMED APPROVED.” Thereafter, Operator shall have the right to perform the applicable work at the City’s reasonable expense in accordance with the terms herein and offset its associated costs against the Retention Payments to extent it provides invoices and proof of payment to Agreement Administrator.

(b) Role of Agreement Administrator. Operator shall provide written notice to Agreement Administrator within twenty-four (24) hours of any significant Loss or Damage to the landing surfaces, buildings or other fixtures at JRB. Agreement Administrator shall be the sole judge, acting in its reasonable discretion, to reasonably require the amount and quality of repairs, maintenance and painting required to restore JRB to substantially the same extent and quality of the Improvements constructed pursuant to this Agreement as well as those existing before the Loss or Damage. Agreement Administrator retains the right, on notice to Operator, to inspect or have inspected such Loss or Damage to JRB. Copies of all physical inspection reports produced by or for Operator in connection with such Loss or Damage shall be promptly sent to Agreement Administrator upon Agreement Administrator’s written request. Under no circumstances shall Agreement Administrator or the City be obligated to maintain or repair JRB at any time, apart from obligations in paragraph (c) below relating to the Substructure of the decking.

(c) Substructure. Agreement Administrator shall, at no cost to Operator, maintain the Substructure in a good and safe condition. If Agreement Administrator or the Operator determine that the decking over the East River constituting a part of JRB is unsafe, based on a report by an Agreement Administrator approved professional and certified consultant, because of spalling of concrete pilings, corrosion of metal pilings, or any other cause, then Agreement Administrator or Operator, as the case may be, may notify the other party of such determination, and thereupon, Operator shall cease using the decking. If any portion of the JRB must be shut down because of repairs or replacements, Agreement Administrator shall perform all necessary repairs on the Substructure, and this Agreement shall be suspended pursuant to Section 2.01(c) above until JRB resumes its normal operations.

Section 4.03 Condition of JRB.

(a) Operator acknowledges that it has inspected the condition of JRB and conducted due diligence to its satisfaction prior to signing this Agreement. Operator acknowledges and agrees that its rights to operate JRB are granted hereunder on an “as is/where is” basis and Operator shall be responsible for the condition of JRB as of the Commencement Date through termination of this Agreement and excluding during complete vacatur of JRB as mandated pursuant to Section 2.01 except as may otherwise provided in this Agreement. Operator shall not be liable for any penalty, assessment or fine issued by any government agency or office nor for any claim or civil action which may be presented or initiated by any agency or officer of the federal, state or local governments or any other person based in whole or in part upon pre-existing environmental contamination. Operator shall not be liable for any remediation costs for such pre-existing contamination including inspection and investigation costs incurred as a result of such pre-existing contamination and costs to correct violations resulting from such contamination.

Except as otherwise provided in this Agreement, neither Agreement Administrator nor the City has made or makes any representation or warranty as to the condition of JRB or its suitability for any particular use or as to any other matter affecting this Agreement. Except as reasonably necessary as part of the Improvements and not in violation of public funding which may be applicable, Operator is prohibited from selling, salvaging, demolishing, or removing any part of JRB, including but not limited to the decking, without the prior written consent of Agreement Administrator. For the avoidance of any doubt, “pre-existing” contamination refers to contamination existing prior to the Commencement Date. Subject to Sections 4.03(a) and (b) and Sections 4.04 (a) and (b), Operator is not responsible for such contamination provided its disturbance was not caused by Operator.

(b) The EAS shall serve as a baseline for determining any liability of the Operator for environmental contamination on a going forward basis. Operator shall not be liable for any penalty, assessment or fine issued by any government agency or office nor for any claim or civil action which may be presented or initiated by any agency or officer of the federal, state or local governments or any other person based in whole upon pre-existing environmental contamination identified in the EAS. Operator shall not be liable for any remediation costs for such pre-existing contamination identified in the EAS, including inspection and investigation costs incurred as a result of such pre-existing contamination and costs to correct violations resulting from such contamination. In the event remediation and continuing inspection and investigation is required by law by the occupant or party discovering such pre-existing contamination, Operator shall perform or cause to be performed such services at no cost to Operator, provided such contamination is not a result of Operator’s activities. Further, upon termination of this Agreement, Operator shall not be responsible for remediation of any environmental condition or form of contamination that is identified in the EAS.

Section 4.04 Improvements. During the Term and subject to the terms of Article IV herein, Operator shall design and construct the facility, aeronautical, eVTOL integration, and Marine Freight and microhub improvements on the timeline and as more fully described in Exhibit J entitled “Schedule of Improvements” (“**New Improvements**”). The New Improvements together with all other construction, reconstruction or renovation of, at, on, or about JRB performed by the Operator and/or on behalf of the Operator as well as any equipment, materials and fixtures affixed to JRB along with trailers or other operations, office or storage structures or buildings are individually referred to as an “**Improvement**” and collectively referred to as the “**Improvements**”. Improvements shall not include routine maintenance and repair activities required to be performed in the normal course of management and operation of JRB. All Agreement Administrator review and approval in connection thereof or any repairs, alterations, restorations or maintenance shall not guarantee or indicate compliance with relevant rules, laws and regulations. Operator is responsible for its own due diligence.

(a) Initial Term Improvements and Long Term Improvements. Subject to Force Majeure and the terms of Article IV herein, (i) by the earlier of (A) twelve (12) months following FAA certification of regular commercial operations at JRB (which shall allow eVTOL aircraft operations for paying passengers) and (B) the fifth (5th) anniversary of the Commencement Date (“**eVTOL Deadline**”), Operator shall have completed, at its sole expense, installation of the necessary infrastructure, including on-site utility upgrade(s), to accommodate the landing and charging of eVTOL aircraft and at least three (3) landing pads with eVTOL chargers, (ii) six (6) months following design completion and receipt of all necessary permits and

approvals diligently pursued by Operator, Operator shall initiate construction of the Marine Highway Project Improvements and Substantially Complete the same by the fifth (5th) anniversary of the Commencement Date (subject to delay as set forth in Section 4.04(a)(vii) hereof) (“**Marine Highway Project Improvements Deadline**”), as outlined in **Exhibit J**, and (iii) by the fifth (5th) anniversary of the Commencement Date, Operator shall make all other improvements listed in the Initial Term Improvements section of Exhibit J, including but not limited to terminal, airfield, and technology upgrades (collectively, the “**Initial Term Improvements**” which Initial Term Improvements shall be considered part of the “**New Improvements**” and “**Improvements**”). Expenditures on the Initial Term Improvements shall equal, at a minimum, the Capital Expenditures set forth for the Initial Term Improvements defined herein. The foregoing deadlines will be subject to the availability of sufficient electricity to be supplied to JRB by the applicable utility provider as well as connectivity, provided Operator takes all commercially reasonable measures to timely procure electricity and connectivity to JRB from the utility provider; the Agreement Administrator shall reasonably cooperate with Operator’s efforts. The Initial Term Improvements shall be constructed at the sole cost of Operator pursuant to the design, timeline and budget as more fully described in **Exhibit J** and in accordance with all applicable federal, state and city rules and regulations as well as the terms and conditions of this Agreement. Long term improvements will include electrification of three additional aircraft parking positions (with applicable eVTOL chargers) and further renovations to the building on the Premises by the end of the first Renewal Term in accordance with the design to be provided to and approved by Agreement Administrator, such approval not to be unreasonably withheld, conditioned or delayed, both long term improvements are deemed part of the Improvements. Agreement Administrator and Operator shall update and modify Exhibit J during the Initial Term and the remainder of the Term of the Agreement as applicable. To the extent Agreement Administrator fails to timely respond to the timelines outlined below in subsections (i) through (iv) and such delay has a material impact on Operator’s ability to meet the scheduled timeline set forth for Substantial Completion, the deadline shall be extended day for day for each day Agreement Administrator failed to timely respond.

- (i) Operator shall first submit draft schematic drawings for the Improvements to Agreement Administrator for Agreement Administrator’s review and comment. Agreement Administrator shall provide comment on the schematics within twenty (20) days after receipt thereof, and if directed by Agreement Administrator, Operator shall revise the schematics and submit the revised schematics for further Agreement Administrator review and comment. Within thirty (30) days following Operator’s receipt of Agreement Administrator’s comments on the schematics, Operator shall submit final schematics to Agreement Administrator, together with updated cost estimations for the New Improvements, for Agreement Administrator’s approval, which approval shall not be unreasonably withheld, conditioned or delayed;
- (ii) Following Agreement Administrator’s approval of the schematic drawings, Operator shall submit draft design development drawings for the New Improvements to Agreement Administrator for Agreement Administrator’s review and comment. Agreement

Administrator shall provide comment on the design development drawings within twenty (20) days after receipt thereof, and if directed by Agreement Administrator, Operator shall revise the design development drawings and submit the revised design development drawings for further Agreement Administrator review and comment. Within thirty (30) days following Operator's receipt of Agreement Administrator's comments on the design development drawings, Operator shall submit final design development drawings to Agreement Administrator, together with updated cost estimations for the Improvements, for Agreement Administrator's approval, which approval shall not be unreasonably withheld, conditioned or delayed;

- (iii) Following Agreement Administrator's approval of the design development drawings, and in all events prior to the commencement of construction work on the Improvements, Operator shall submit final construction drawings for the New Improvements to Agreement Administrator, together with updated cost estimations for the New Improvements for Agreement Administrator's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Operator shall also submit copies of all necessary government regulatory permits for the New Improvements and for Operator's operations at JRB together with the final construction drawings;
- (iv) Operator shall submit all three (3) sets each of the schematics, design development drawings, and construction drawings, in reduced size format;
- (v) Operator shall submit Plans and Specifications to Agreement Administrator for review and approval prior to the commencement of construction work on the New Improvements, which approval shall not be unreasonably withheld, conditioned or delayed;
- (vi) Operator shall at all times comply with the terms and provisions of the EAS, including but not limited to, obtaining NYSDEC and United States Army Corps of Engineers ("USACE") permits and update any CEQR assumptions or determinations to secure such permits; and
- (vii) Upon receipt by Operator of a notice to proceed, Operator shall diligently commence to construct and erect the New Improvements and, subject to Force Majeure and delays caused by entities granting permits and approvals to the extent that they are not caused by the Operator or its representatives and are outside of the ordinary course of business, Operator shall Substantially Complete including but not limited to obtaining a certificate of occupancy (temporary or permanent) and/or any other permits or certificates required by the applicable governing agencies no later than the dates set forth in

Section 4.04(a). Operator shall copy Agreement Administrator on all correspondence between Operator and any government regulatory agency involved in the permitting or approval of the New Improvements or in Operator's operations at JRB unless otherwise indicated by Agreement Administrator.

- (viii) Notwithstanding the foregoing, unless otherwise agreed in writing by both parties hereto or required by Laws, any revisions required by Agreement Administrator to the Plans and Specifications (A) shall be reasonable with respect to the scope, design, cost and specifications as proposed by Operator; and (B) shall not seek to revise aspects of the Plans and Specifications that have already been approved by Agreement Administrator at a prior approval stage.

(b) Marine Highway Project Improvements. Subject to the remainder of this paragraph, Operator is required to advance funding to execute the Marine Highway Project Improvements, and costs not reimbursed to Operator, along with any additional cost increases, shall be the sole responsibility of Operator, in accordance with Exhibit J. To the extent the MARAD grant covers less than the anticipated costs or the relevant costs are not reimbursable to Operator in accordance with MARAD rules, Operator is responsible to pay remaining amounts to cover the cost of the Marine Highway Project Improvements, in accordance with Exhibit J, but not including any design and associated NEPA review or any resulting environmental requirements which costs (including, for example, the cost of any environmental remediation or mitigation work, unless such work becomes necessary due to Operator's disturbance of pre-existing environmental contaminants or non-compliance with the requirements of the applicable permit or approval) are to be borne by the City and to be reimbursed with MARAD funds in accordance with the terms of the MARAD grant. It is anticipated that a 100% level of design for the Marine Highway Project Improvements will be completed by the City's selected consultant. This design shall inform the NEPA review requirement of the MARAD grant. It is also anticipated that the Operator will provide feedback through the process and participate in design workshops (including with respect to value engineering) and other stakeholder engagement meetings hosted by Agreement Administrator and its selected consultant(s). This participation will enable opportunity for input on design development and integration of Operator's anticipated design marine highway operations. The Operator will execute the Marine Highway Project Improvements in accordance with the 100% design and Agreement Administrator and Operator agreed upon conceptual plans. The Agreement Administrator acting on behalf of the City shall be reimbursed with MARAD grant funds for costs expended and any remaining MARAD grant funds allocated to JRB will be paid to Operator in accordance with the terms of the MARAD grant to be used for berthing related infrastructure at JRB.

Section 4.05 Improvements, Maintenance, Repairs, Replacements, Alterations and Renovations.

(a) Except as provided elsewhere in this Agreement, Operator shall be responsible for all repairs, maintenance, replacements, renovations and alterations necessary for the upkeep of JRB. The Operator must obtain and maintain as valid any and all necessary approvals, permits, and licenses for the construction and lawful operation of this concession, and

bear all costs in connection with such approvals and in connection with any environmental review(s). All necessary permits and approvals for work including but not limited to capital work, operation and design must be obtained from the City Department of Buildings, as applicable, and all other agencies having jurisdiction. Additionally, all designs and work to be performed at JRB shall be prepared by licensed architects or engineers and will require prior approval from Agreement Administrator, and, as applicable, from the City Art Commission, the City Department of Buildings, the New York City Public Design Commission, DSBS, and any other agencies having jurisdiction. The Operator shall retain a professional New York State-licensed engineer or registered architect as approved by Agreement Administrator (not to be unreasonably withheld, conditioned or delayed) to design, and file proposed capital work and to oversee the entire construction project. This supervising architect or engineer shall ensure that all construction conforms to the Plans and Specifications approved by Agreement Administrator. Operator is required to submit engineer or architect's qualifications for Agreement Administrator's approval. Operator shall provide Agreement Administrator with all plans and specifications upon completion of the construction documents. The plans should be in ink on Mylar paper and should also be submitted electronically, and all associated costs shall be borne by Operator. Further, all documents required to be filed by the Operator with the FAA related to or in conjunction with this Agreement and/or JRB must also be filed with Agreement Administrator. All costs associated with the operation, repair, and maintenance of JRB will be paid by Operator except as otherwise set forth herein.

(b) A construction security deposit, in an amount and format approved by Agreement Administrator, will be required to ensure that all construction or renovation work is completed to the satisfaction of Agreement Administrator. The security deposit must be made before the commencement of any construction or renovation work.

(c) Agreement Administrator and the City make no representations regarding the adequacy of current site utilities. The Operator must connect to and/or upgrade any existing utility service or create a new utility system and obtain the appropriate permits and approvals for same. The Operator must pay for any and all utility costs for the concession during the Term of the Agreement, including all water and sewer charges that the DEP may assess.

(d) The Operator shall comply with all City, state and federal requirements, including, but not limited to, City Local Laws for building energy efficiency and greenhouse gas emissions reduction, and to those necessary to provide safe and accessible facilities, including for persons with disabilities.

(e) Operator shall be solely responsible for all costs and payments for the Improvements described in **Exhibit J** as well as all repairs, replacements, renovations and alterations and shall develop such Improvements and repairs, replacements, renovations and alterations without any lien on JRB. The Improvements, other than leased equipment (except as otherwise provided herein) or the personal property of Operator or any of the users, licensees or occupants of the facility, shall become the property of the City upon construction or installation except as otherwise provided herein, if at all, but Operator shall remain entitled to depreciate the same for tax purposes as permitted by Law. Notwithstanding the above, regardless of whether leased or considered personal property, eVTOL chargers, antennas, electric chargers for vehicles and Barges (and existing barge) shall be considered Improvements and shall become the property

of the City upon construction or installation but Operator shall remain entitled to depreciate the same for tax purposes as permitted by Law. However, at its election, Operator may remove and keep unaffixed advertising and promotional materials, movable furniture, and movable equipment (not including the eVTOL chargers, antennas, electric chargers for vehicles and Barges (and existing barge) or as otherwise reasonably agreed to by the parties in writing) at the end of Term to the extent such removal does not damage JRB unless such damage is repaired and that portion of JRB is left in the same or better condition than prior to the Commencement Date. Notwithstanding the foregoing, and subject only to limited use exceptions set forth elsewhere in this Agreement, such Improvements shall be subject to Operator's exclusive control and duty to maintain, repair or replace until this Agreement expires or is terminated, except as otherwise provided herein. If the Agreement is terminated, the City will not reimburse Operator's unamortized capital improvement costs as of the date of termination. Improvements may not be removed from JRB without the written approval of the City except that unaffixed advertising and promotional materials, movable furniture, and movable equipment (not including the eVTOL chargers, antennas, electric chargers for vehicles and Barges (and existing barge) may be removed without consent to the extent the removal does not cause damage. Neither Agreement Administrator nor the City shall be liable to any contractor or materialman for any repairs, replacements or Improvements made to JRB unless such Improvements were made by the City or Agreement Administrator or its contractors. In the event Operator performs the required Initial Term Improvements for less than the required Capital Expenditure set forth in Exhibit J, the City may, at its option, request that any funds not spent will be remitted to the City as additional fees under this Agreement. Such funds shall not include any reimbursement available to Operator under the MARAD grant. In no event shall Operator cause any threshold of the major concession rules promulgated by the City Planning Commission, codified in 62 RCNY Chapter 7, to be exceeded, or undertake improvements that require the filing of an Environmental Impact Statement.

(f) Operator, at its expense, and as a part of the Improvements shall supply and install at JRB, the equipment and materials reasonably necessary for use of Operator in the operation of JRB, it being understood and agreed that to the extent that this equipment and material becomes an integral part of JRB, it shall, at the option of the City, become and at all times remain the sole property of the City, other than leased equipment or the personal property of Operator or any of the users, Licensees or occupants of the facility, not including, eVTOL chargers, antennas, electric chargers for vehicles and Barges (and existing barge)).

(g) Operator, at its expense, and as a part of the Improvements may, with the prior written consent of Agreement Administrator, make any alterations or improvements to JRB that, in its opinion, are required or desirable to conduct its operations. To the extent repairs, renovations and alterations do not require a Department of Buildings permit for the work, only prior notice, not consent of Agreement Administrator shall be required.

(h) After completing the Initial Improvements, Operator shall obtain the prior written approval from Agreement Administrator, not to be unreasonably withheld, conditioned or delayed, for the selection, design and implementation of any material improvements (i.e., to the extent a Department of Buildings permit is required for the work) to JRB, including without limitation, appurtenances to JRB, repairs, replacements and Improvements to JRB, operating equipment, security equipment and signage, and shall respond to any objections to design, cost or selection which may be raised by Agreement Administrator and modify the plans or re-bid the

work as ultimately agreed to by Agreement Administrator. Operator acknowledges that consistent with Section 4.05(e), Improvements, materials and equipment installation, other than leased equipment or the personal property of the Operator or any of the users, licensees or occupants of the facility, shall become the property of the City, at the option of the City, and shall be administered on its behalf by Agreement Administrator or Agreement Administrator's permitted assignee hereunder but Operator shall be permitted to claim depreciation on account thereof as permitted by applicable Law, and further that neither Agreement Administrator nor the City shall be liable to any contractor or materialman for any repairs, replacements or Improvements made to JRB during the Term unless such repairs, replacements or Improvements were made by the City or Agreement Administrator or its contractors. Furthermore, should the City request that the Operator remove the fixtures, materials and equipment installation, it shall do so and return the Site to the City in a good condition consistent with the description in Section 4.05(i), including meaning repairing any damage associated with the vacatur.

(i) Upon the Expiration Date, Agreement Administrator may require that Operator restore JRB to commercially reasonable good condition (but not better than the condition at the Commencement Date and subject to reasonable wear and tear) with the addition of New Improvements or other Improvements made pursuant to the terms herein, such restoration to be at Operator's sole cost and expense and to the reasonable satisfaction of Agreement Administrator. In the event Operator fails or neglects to do so in accordance with the terms of this Agreement, Agreement Administrator and/or the City, at their option, may, but is not obligated to, remove any Improvements installed by or on behalf of Operator. Agreement Administrator may draw down on the Security Deposit to enforce this paragraph 4.05(i). Nothing herein shall require Operator to remove any Improvements other than movable personal property that is not affixed.

(j) Payment and Performance Bond(s). Prior to commencement of any work exceeding Two Hundred Fifty Thousand (\$250,000.00) dollars, Operator shall deliver a payment and performance bond(s) naming the City and Agreement Administrator as obligee, in an amount equal to one hundred percent (100%) of the aggregate costs and expenses of the work, to secure the faithful performance and completion of such work and prompt payment of monies due to all Persons furnishing labor or materials for such work or, in lieu of a payment and performance bond(s), a letter of credit or a completion guaranty from a credit worthy guarantor acceptable to the City and/or Agreement Administrator to ensure the timely and full completion of the work and payment for the work. If, prior to substantial completion of the applicable work, the payment bond and performance bond, letter of credit or completion guaranty is cancelled or otherwise ceases to be in full force and effect (other than pursuant to its terms), then, within ten (10) days after notice of the foregoing, Operator shall provide a replacement payment bond and performance bond or other comparable security acceptable to the City and/or Agreement Administrator in its sole discretion.

(k) Upon reasonable notice to the Operator except in the event of an emergency in which case no notice shall be required, Agreement Administrator reserves the right to enter JRB to make mutually agreed upon capital improvements to JRB. In such an event, the Agreement Administrator agrees to make good faith efforts to minimize disruption.

Section 4.06 Code Compliance. The Operator shall be required to remain in compliance with the NYC Building Code standards (“Code”).

Section 4.07 Procurement of Bids, Services and Goods.

(a) Independent Contractor. Operator agrees to enter into, or cause to be entered into, all contracts for goods or services in connection with JRB independently and not as agent of Agreement Administrator or the City. During the Term of this Agreement, Operator shall manage and operate JRB as an independent contractor for the City.

(b) Permitted Persons. Operator may only enter into any contract with a Permitted Person with respect to JRB. If Operator believes that a party to a potential contract may not be a Permitted Person, Operator shall notify the Agreement Administrator and Agreement Administrator shall make a determination of same within thirty (30) days of such request by Operator provided the appropriate and requested documentation reasonably needed to make the determination is provided with the request. Agreement Administrator may request additional documentation including a Required Disclosure Certificate.

(c) Approval of Subcontractors. All contractors, subcontractors and consultants of the Operator must be pre-approved by Agreement Administrator, and if required, shall be qualified under all NYC Fire Department certifications. Operator shall be responsible for the acts of all contractors, subcontractors and consultants of the Operator. Operator shall ensure that all its proposed contractors, subcontractors, sub-concessionaires, and subconsultants and consultants whose aggregate value of City contracts, franchises, and concessions awarded during the past twelve-month period equals or exceeds one hundred thousand dollars (\$100,000) enroll in the Mayor's Office of Contract Services' Procurement and Sourcing Solutions Portal (PASSPort).

Section 4.08 Hazardous Materials. Except for the transportation and storage of Hazardous Materials, including without limitation, Petroleum, ordinarily and customarily used in the operation, maintenance, repair and improvement of facilities similar to JRB, all of which shall be handled, transported and stored in strict compliance with all Laws including but not limited to Environmental Laws, or as may be utilized or transported by Licensees, Operator shall take all actions legally permissible to prevent the transportation or storage of any Hazardous Materials (as defined in Section 5.01(b)), at, on or through JRB without the prior written approval of Agreement Administrator. Without limiting the foregoing, any transporting or storage of Hazardous Materials at, on or through JRB by Operator shall be subject to the conditions that: (i) no Hazardous Materials shall be stored at JRB unless permitted herein (it being agreed that lithium ion batteries shall be permitted) and in compliance with applicable Environmental Laws; (ii) Operator shall take steps consistent with those taken on its other similarly situated aviation and berthing properties to prevent the use, handling, transport, disposal or release of Hazardous Materials by unauthorized persons; and (iii) if permitted by Agreement Administrator, all handling of Hazardous Materials at JRB shall be performed in compliance with all applicable Laws. In the event of any release of Hazardous Materials occurring on any segment of JRB from storage facilities and regardless of the cause of such release, Operator at its sole expense shall immediately: (a) make any and all reports required by federal, state or local authorities, and submit copies of such reports to Agreement Administrator; (b) advise both the owner/shipper and Agreement Administrator of the Hazardous Materials released and their location; and (c) arrange for and perform or cause the performance of any appropriate response action in connection with any release of Hazardous Materials from JRB, in accordance with all

Laws, rules or regulatory requirements, provided, however, that the foregoing shall in no way limit Operator's ability to seek recovery from any responsible third parties of the costs incurred by Operator.

Section 4.09 Personnel.

(a) Operator shall employ at JRB a sufficient number of personnel selected by Operator and capable of managing and maintaining JRB. Such personnel may include independent contractors and not employees but all personnel shall be screened by Operator before hiring and shall be employed, disciplined, discharged, promoted, and directed in the performance of their duties solely by Operator. Operator shall negotiate and obtain any necessary labor agreements covering its employees at JRB. Subject to the limitations contained in the relevant collective bargaining agreement, or applicable laws, rules and regulations, Agreement Administrator shall have the right to require the removal of any employee from JRB whose conduct shall not reasonably satisfy Agreement Administrator. In addition, Operator hereby expressly agrees to inform Agreement Administrator immediately, in writing, upon the occurrence of any event at JRB that involves a security-related matter (e.g., trespass, property damage, or criminal activity reported to a law enforcement agency).

(b) Operator shall have sole discretion to select individuals and entities for the performance of its services at JRB; however, all such individuals and entities are subject to Agreement Administrator's approval, not to be unreasonably withheld, conditioned or delayed. Operator shall confer with Agreement Administrator in its selection of any temporary or permanent general manager for JRB ("**General Manager**"). The selection of General Manager is subject to Agreement Administrator's approval, not to be unreasonably withheld, conditioned or delayed. Operator shall only employ, use or contract with qualified individuals who are fit for duty and who meet the applicable requirements, if any, of any regulatory and/or administrative agency. In accordance with the terms herein and commercially reasonable efforts, Operator will ensure that its employees, agents, contractors and subcontractors comply with all laws and regulations promulgated by the FAA, New York State Department of Transportation ("NYSDOT"), New York City Department of Transportation ("NYCDOT"), TSA, and other regulatory and/or administrative agencies, including regulations relating to drug/alcohol testing, equipment safety, and Hazardous Materials.

Section 4.10 No Discrimination. Operator covenants that it will not violate any laws concerning discrimination, including but not limited to Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act, as amended, Americans With Disabilities Act, Section 1981 of the Civil Rights Act of 1870, Section 1983 or 1985 of the Civil Rights Act of 1871, Equal Pay Act, Executive Order 11246, Rehabilitation Act of 1993, Vietnam-Era Veterans' Readjustment Assistance Act, Immigration Reform and Control Act of 1985, the New York State Human Rights Law, the New York City Human Rights or Civil Rights Law, Executive Order 50 or any other federal, state or local laws, statutes, regulations, ordinances or orders concerning discrimination (the "**Discrimination Laws**"). Operator further covenants to require any subcontractor to comply with the Discrimination Laws. Operator shall post conspicuously employment non-discrimination notices at JRB. In all advertisements for employment at JRB, Operator shall state expressly that it is an equal opportunity employer.

Section 4.11 Prohibition of Liens.

(a) Subject to Section 5.03, Operator shall not create, cause to be created or allow to exist (i) any lien, encumbrance or charge upon JRB or any part thereof, (ii) any lien, encumbrance or charge upon any assets of, or funds appropriated to, Agreement Administrator or the City, or (iii) any other matter or thing whereby the estate, rights or interest of Agreement Administrator or City in and to JRB or any part thereof might be impaired. Subject to Section 5.03, if any mechanic's, laborer's, vendor's, materialman's or similar statutory lien is filed against JRB or any part thereof, or if any public improvement lien is created, or caused or suffered to be created by Operator, or shall be filed against any assets of, or funds appropriated to, the City or Agreement Administrator, then Operator shall within thirty (30) days after receipt of notice of the filing of such mechanic's laborer's, vendor's, materialman's or similar statutory lien or public improvement lien, cause it to be vacated or discharged of record by payment, deposit, bond, order of court of competent jurisdiction or otherwise, subject to Operator's right to dispute the validity of the lien, as addressed in Subsection (b) below.

(b) Should Operator elect to dispute the validity of any such lien or charge placed, filed or recorded against JRB, in lieu of canceling or discharging the same, Operator (i) shall furnish to Agreement Administrator a bond or bonds or a cash escrow in connection therewith in such form and amount as shall be reasonably approved by Agreement Administrator and (ii) shall bring an appropriate proceeding to discharge such lien and shall prosecute such proceeding with diligence and continuity; except that if, despite Operator's efforts to seek discharge of the lien, Agreement Administrator believes such lien is about to be foreclosed and so notifies Operator, Operator shall immediately cause such lien to be discharged as of record or Agreement Administrator may use the bond or other security (including the Security Deposit) furnished by Operator in order to discharge the lien.

Section 4.12 Prohibition on Security Interests. Operator shall not pledge as security for any loan any of the assets or interests in JRB, including any revenue derived from the operation of JRB without the prior written consent of the City. The foregoing shall not apply to the general credit facilities of Operator or its Affiliates.

Section 4.13 Access. Operator shall permit inspection of JRB by agents, employees, consultants and representatives of the City and/or the Agreement Administrator and shall permit inspection thereof by or on behalf of prospective future operators or occupants.

Section 4.14 Delegation. The City or Agreement Administrator may delegate its rights and obligations hereunder to its Affiliate or other successor entity.

ARTICLE V

INDEMNIFICATION AND CASUALTY

Section 5.01 Indemnification.

(a) To the fullest extent permitted by law, Operator shall defend, indemnify, reimburse and hold harmless the City and Agreement Administrator, and their respective directors,

officers, agents, members, representatives, officials and employees (collectively the “**Indemnified Parties**”) from and against any and all liabilities, claims, suits, demands, penalties, fines, settlements, damages, costs, charges, expenses and judgments of whatever kind or nature or unknown, contingent or otherwise (including, without limitation, architects’ fees, court costs and attorneys’ fees and disbursements), unless caused by the gross negligence or intentional tortious acts or omission of any of the Indemnified Parties:

- (i) arising from Loss or Damage to the extent said Loss or Damage is the result of any act(s) or omission(s)(where obligated to act) of Operator, or of Operator’s employees, guests, contractors, subcontractors, representatives, or agents occurring on JRB or on roads or other accesses that adjoin JRB, or arising out of or as a result of actions taken by Operator pursuant to this Agreement or operations conducted at JRB and except for any environmental condition existing prior to the commencement of the Initial Term,
- (ii) arising from Loss or Damage out of the use, non-use, possession, occupation, alteration, condition, operation, maintenance or management of JRB or of any street, plaza, sidewalk, curb, vault, passageway, body of water or space comprising a part thereof or any street, sidewalk, vault or curb adjacent thereto, or other area for which the City, as owner of JRB, is responsible under Laws, except for the condition of the Subsurface of the deck which is the City’s responsibility hereunder, in each case during the Term,
- (iii) arising out of any accident, injury (including death at any time resulting therefrom) or damage to any Person or property occurring during the Term in, on, or about JRB or any part thereof including but not limited to the Improvements, or in, on or about any street, plaza, sidewalk, curb, vault, passageway, body of water or space comprising a part thereof or adjacent thereto or other area for which City, as owner of JRB is responsible under Laws,
- (iv) relating to or arising from any and all liens and encumbrances which may be filed or recorded against JRB or any public improvement lien filed against any funds of the City or Agreement Administrator as a result of actions taken by or on behalf of Operator, its contractors, subcontractors, agents, representatives, employees, guests or invitees, with respect to JRB, or
- (v) arising out of, or resulting from the presence, storage, transportation, disposal, or release of any Hazardous Materials (as hereinafter defined) over, under, in, on, from or affecting JRB during the Term of this Agreement, to the extent said presence, disposal, or release is the result of any act(s) or omission(s) (where Operator had an obligation to act) of Operator or Operator’s employees, guests,

contractors, subcontractors, representatives or agents, except for contamination existing prior to the Commencement Date.

In connection with the foregoing indemnification, the City and the Agreement Administrator:

- (1) shall notify Operator as soon as reasonably possible in the event that the City or the Agreement Administrator becomes aware of a Loss or Damage allegedly covered by the indemnification and shall forward to Operator any summons, complaint or notice of any nature pertaining thereto as soon as reasonably practicable;
- (2) (i) Operator shall, at its sole cost and expense, provide attorneys to defend a claim of Loss or Damage, and (ii) in the event Operator's insurance company defends a claim of Loss or Damage, such insurance company shall have the right to provide attorneys to defend a claim of Loss or Damage, at its election, and at its sole cost and expense.
- (3) the City or the Agreement Administrator shall cooperate as reasonably requested by Operator to investigate, settle or defend any claim of Loss or Damage;
- (4) Neither party shall compromise or settle any such claim of Loss or Damage that is subject to the indemnification, without prior written approval of the other party and, as applicable, Operator's insurance company, except that Operator may settle any claim if such settlement includes a full release of the City and Agreement Administrator with respect to such claim, without any obligation on the part of the City and/or Agreement Administrator.

(b) Definitions. **“Hazardous Materials”** means (i) any “hazardous waste” as defined under the Resource Conservation and Recovery Act, 42 U.S.C. Section 9601 et seq., or (ii) “hazardous substance” as defined under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq., or (iii) “hazardous materials” as defined under the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq., or (iv) “hazardous waste” as defined under New York Environmental Conservation Law Section 27-0901 et seq., or (v) “hazardous substance” as defined under the Clean Water Act, 33 U.S.C. Section 1321 et seq., or (vi) “Petroleum” as defined in N.Y. Environmental Conservation Law §15.0514, and any regulations promulgated thereunder, each as it may be in effect from time to time, or (vii) asbestos, or (viii) polychlorinated biphenyls. The provisions of this Section 5.01 shall survive the Expiration Date or other termination hereof.

(c) Response to Claims. Each party shall provide written notice to the other party of the receipt of any notice of any claim or threatened claim and provide to the other party a

copy of the notice, any additional or other documents provided by the person making the claim, and any response to the claim. For any claim under this Section 5.01, Operator shall have the duty to defend or respond to any claim, and to take all actions required by applicable law, ordinance or governmental rule, regulation or order to respond to any such claim or the events leading to such a claim, all at its sole and exclusive cost. Subject to taking all actions necessary to maintain any applicable privilege, Operator shall promptly provide the City and Agreement Administrator with a copy of all studies, expert reports, and other documents related to such claim, and shall consult with the City and Agreement Administrator concerning any response. The City and Agreement Administrator may be represented at their own expense in a proceeding related to the claim by counsel or other representative, and Operator (and its agents, consultants and counsel) shall reasonably cooperate with the City and Agreement Administrator regarding such participation.

Section 5.02 Reporting of Accident/Incidents. In addition to notifying the appropriate police and other agencies, Operator shall report to Agreement Administrator any FAA reportable accident/incident or crime which arises in connection with JRB within twenty-four (24) hours of such accident/incident. Operator will comply with all rules and regulations issued by the FAA, USCG and other agencies concerning the reporting of Accidents/Incidents.

Section 5.03 Pre-Term Liability. Notwithstanding anything to the contrary contained in this Agreement, in no event shall Operator have any liability or obligation in respect of any claim, such as third-party claims or liens, matter or occurrence accruing or arising prior to the Term with respect to contaminants except, subject to Section 4.04(b) above, to the extent pre-existing conditions are disturbed as a result of actions or inactions that occur during the Term. Further, notwithstanding anything to the contrary contained in this Agreement, in no event shall Operator have any liability or obligation in respect of any claim, such as third-party claims or liens, matter or occurrence accruing or arising prior to the Term except, subject to Section 4.04(b) above, to the extent a pre-existing condition is not corrected to prevent further occurrences that pose ongoing risk to the safety of operations at JRB and/or are required by law.

ARTICLE VI

INSURANCE

Section 6.01 Liability Insurance

(a) The Operator shall, at all times throughout the Term, provide and keep in force (x) Aviation Commercial General Liability Insurance covering the operations of the Operator at or near JRB, including the operation of mobile equipment and any other tools or equipment that is the responsibility of the Operator, against liability for bodily injury, death and property damage, including JRB and all sidewalks adjoining or appurtenant to JRB. The City and Agreement Administrator, and their respective directors, officers, agents, members, representatives, officials, and employees (“Additional Insureds”), shall be listed as an additional insureds as respects operations of the named insured on the Aviation Liability Insurance policies and as additional insureds for ongoing and completed operations (with coverage no narrower than that provided under ISO endorsement CG 20 2604 13 and CG 20 37 04 13. Such additional insured status shall apply on a primary and non-contributory basis. The Aviation Commercial General Liability Insurance shall have limits applicable exclusively to operations under this Agreement of

fifty million dollars (\$50,000,000) per occurrence and fifty million dollars (\$50,000,000) aggregate, which may be obtained through a combination of primary and excess policies. If such insurance contains an aggregate limit, it shall apply separately to the operations and activities undertaken pursuant to this Agreement (“per project” or “per location”). All such insurance shall include the following protection:

- (i) Aviation Commercial General Liability, in the amount of fifty million dollars (\$50,000,000) per occurrence and fifty million dollars (\$50,000,000) in the aggregate on a per location basis covering typical, industry-standard aviation operation exposures with no exclusions for electric vertical take-off and landing (eVTOL) aircraft and including Hangar Keeper’s Liability and War Risk Liability applicable to Commercial General Liability. Hangar Keeper’s Liability limits shall be at least equivalent to the value of the aircraft while parked or stored on-site;
- (ii) Coverage shall be broad form liability, including (A) blanket contractual liability (covering the indemnification provisions assumed by the Operator hereunder, including bodily injury to employees or others assumed by the Operator under contract), which insurance shall cover all costs, expenses and/or liability (including, without limitation, attorneys’ fees and disbursements) arising out of or based upon any and all claims, accidents, injuries and damages required to be insured against hereunder), (B) personal injury and advertising injury liability, (C) premises medical payments, (D) host liquor liability if liquor is being sold by Operator at JRB), (E) fire legal liability on real property, (F) broad form property damage liability, including completed operations, (G) incidental medical malpractice, (H) JRB coverage territory as commercially available, (I) additional interests insured, (J) extended bodily injury coverage to include emotional distress, mental anguish, and fright, as commercially available, (K) automatic coverage on newly-acquired entities, and (L) non-owned aircraft and hangarkeepers liability;
- (iii) Host Liquor liability
 - (A) in the event the Operator shall serve alcohol at JRB , the Operator shall carry or cause to be carried liquor law liability insurance in an amount not less than Three Million Dollars (\$3,000,000) per occurrence and Three Million Dollars (\$3,000,000) aggregate, and name the Additional Insureds as additional insured, and such insurance shall be effective prior to the commencement of any such service of alcohol and continue throughout such operations;
- (iv) products and completed operations;

- (v) independent contractors;
- (vi) blanket automatic contractual liability to include bodily injury to employees of others assumed by the Operator, subject to terms and conditions;
- (vii) intentionally omitted;
- (viii) waterfront activities shall not be excluded;
- (ix) endorsement acknowledging aviation facility operations on JRB;
- (x) terrorism coverage; and
- (xi) XCU coverage.

(b) The Operator shall maintain or cause to be maintained (and such evidence of insurance provided therewith), at all times throughout the term when Drones are used, provide and keep in force Drone Liability insurance covering the operations of the Operator at or near JRB, against liability for bodily injury, death, and property damage, including JRB and all sidewalks adjoining or appurtenant to JRB. For any third party operators who may be on site and using drones, these same conditions shall apply. The limits of such insurance shall not be less than twenty-five million dollars (\$25,000,000) per occurrence and twenty-five million dollars (\$25,000,000) aggregate, and shall name the Agreement Administrator and the City as additional insureds on a primary and non-contributory basis. A waiver of subrogation in favor of the Agreement Administrator and the City shall also be included on such policy.

(c) The Operator shall, at all times throughout the Term, provide and keep in force Commercial Automobile Liability Insurance with coverage at least as broad as the most recent edition of ISO CA 00 01 for all owned, non-owned, leased, rented and/or hired vehicles insuring against liability for bodily injury and death and for property damage in an amount as may from time to time be reasonably determined by the Agreement Administrator but not less than one million dollars (\$1,000,000) combined single limit per accident and include coverage for the use of vehicles anywhere on and off the JRB Premises. If vehicles are used for transporting any hazardous substances, such Commercial Automobile Liability Insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles, ISO Form CA 99 48, as well as proof of an ISO Form MCS-90 endorsement.

(d) The Operator, when exposure exists, shall maintain or cause to be maintained (and such evidence of insurance provided therewith) \$50,000,000 Marine General Liability (including Sudden & Accidental Pollution Liability) coverage including but not limited to Landing Owner's/Wharfowner's Legal Liability coverage applicable to third-party vessels in the care, custody or control of Operator at the facility. Such insurance shall name the City and Agreement Administrator and their respective directors, officers, agents, members, representatives, officials, and employees, as additional insureds, and have a limit of at least fifty million dollars (\$50,000,000) per occurrence and in the aggregate.

(e) The Operator shall maintain or cause to be maintained (and such evidence of insurance provided therewith) Hull & Machinery coverage for physical loss of damage or destruction to the vessel and its equipment, engines and machinery for all vessels using JRB with coverage at least as broad as the latest edition of the American Institute Hull Clauses policy form in effect on the date hereof providing agreed amount coverage for all marine vessels covering their replacement value, as applicable.

(f) The Operator shall maintain or cause to be maintained (and such evidence of insurance provided therewith), coverage for property damage to the aircraft while on-site or in motion which falls outside of the standard Hangar Keeper's Liability policy. Limits of insurance shall not be less than the total replacement value of such aircraft.

Section 6.02 Pollution Insurance. The Operator shall, at all times throughout the Term, provide and keep in force Pollution Legal Liability coverage with limits no less than ten million dollars (\$10,000,000) per occurrence and ten million dollars (\$10,000,000) aggregate or such higher amount as the Agreement Administrator may require following completion of the final design of the proposed fuel facility. If such insurance contains an aggregate limit, it shall apply separately to the operations and activities undertaken pursuant to this Agreement. Such insurance shall name the Operator as first named insured and the City and Agreement Administrator and their respective directors, officers, agents, members, representatives, officials, and employees, as additional insureds on a primary and non-contributory basis, including coverage of Loss or Damage arising from (1) investigation, removal, clean-up costs, remediation, monitoring or response action, to the extent required by environmental laws and any repair, replacement or restoration of real or personal property to substantially the same condition it was in prior to any of the forgoing activities; (2) orders, decrees, directives, injunctions or judgments by any governmental authority; (3) third party claims for bodily injury (including without limitation medical monitoring) and property damage (including, without limitation, natural resource damages); and (4) business interruption; in each case, to the extent such Loss or Damage relate to Pollution Conditions. "Pollution Conditions" as used herein means the discharge, dispersal, migration, release or escape of any hazardous materials into or upon land, or any structure on land, subsurface, soils, sediments, the atmosphere or any watercourse or body of water, including groundwater, whether caused by a third party (including without limitation remediation contractors or consultants), an act of war or terrorism or otherwise, in each case, on, at, under, or migrating to or from, JRB.

Section 6.03 Property Insurance. The Operator shall, at all times throughout the Term, provide and keep in force comprehensive "All Risk" special perils property insurance with coverage at least as broad as the most recent edition of ISO Form CP 10 30 covering JRB for direct physical loss or damage and naming the City as an additional insured and Agreement Administrator as loss payee, including, with commercially reasonable sublimits, coverage for loss or damage by acts of terrorism (TRIPRA), water (including hurricanes and named storms), windstorm, subsidence, and earthquake (excluding, at the Operator's option, from such coverage normal settling only) and for all buildings, structures, equipment and fixtures in or upon JRB with coverage at least as broad as the most recent edition of ISO CP 0010 in an amount not less than the full replacement cost of such property, without factoring for any coinsurance clauses or depreciation. Such insurance, shall cover the interests of both the City and Agreement Administrator and the Operator in such property via a Loss Payee Endorsement, shall be valued

at full replacement cost value, and shall include the following types of coverage with commercially reasonable sublimits; Building Ordinance Coverage; Business Income; Civil & Military Authority; Debris Removal; Decontamination Costs; Demolition and Increased Cost of Construction; Earth Movement;; Extra Expense; Adjustment and Claim Expense; Flood; Ingress/Egress; On Premises Services; Property Damage; Service interruption Property Damage; Service Interruption Time Element; Soft Costs; Terrorism; Business Interruption covering, at the least, all annual Retention Payments payable by Operator under this Agreement.

Section 6.04 Builders' Risk Insurance. The Operator shall maintain or cause to be maintained (and such evidence of insurance provided therewith) provide and keep in force during any construction activities a Builders' Risk Insurance policy covering all risks in completed value form. Such policy shall cover the total value of the Improvements, as well as the value of any equipment, supplies and/or material that may be in storage (on or off JRB) or in transit. The policy shall, with commercially reasonable sublimits, cover the cost of removing debris, including demolition as may be legally necessary by the operation of any law, ordinance or regulation, and for loss or damage to any owned, borrowed, leased or rented capital equipment, tools, including tools of their agents and employees, staging towers and forms, and property of the City or Agreement Administrator held in their care, custody and/or control. Such policy shall name the City and the Agreement Administrator and the Operator as insureds. The Builders' Risk Insurance policy shall contain the following endorsements.

- (i) The City, the Agreement Administrator and the Operator shall be named as loss payees in order of precedence, as their interest may appear; and
- (ii) In the event the loss occurs at JRB, the policy shall permit occupancy without the consent of the insurance company; and
- (iii) In the event that the insurance policy has been issued by a mutual insurance company, the following language shall be included: "Neither the City of New York nor the New York City Economic Development Corporation is liable for any premium or assessment under this policy of insurance. The first named insured is solely liable therefor."

Section 6.05 Workers' Compensation, Employers Liability, Disability Benefits Insurance. The Operator shall, at all times throughout the Term, provide and keep in force workers' compensation and disability coverage providing statutory New York State benefits for all persons employed by the Operator at or in connection with JRB and employer's liability insurance in an amount not less than \$1,000,000 bodily injury by accident, each accident; \$1,000,000 bodily injury by disease-each employee; and \$1,000,000 bodily injury by disease-policy limit; and shall include maritime employer's liability and United States Longshore & Harbor Workers Compensation Act ("USL&H") as applicable.

Section 6.06 Employment Practices Liability Including Third-Party Coverage. The Operator shall, at all times throughout the term, provide and keep in force Employment Practices Liability insurance including coverage for claims arising out of third parties, in an amount not

less than \$1,000,000 each claim and \$1,000,000 annual aggregate. If coverage is written on a claims-made basis, the Retroactive Date must not be earlier than the effective date of this Agreement.

Section 6.07 Deductibles. The insurance required in Sections 6.01, 6.02, 6.03, and 6.04 shall contain no deductibles in excess of one hundred thousand dollars (\$100,000) per occurrence or claim (as applicable) for all policies except automobile, which may have not more than a ten-thousand-dollar (\$10,000) deductible, unless otherwise specifically approved in each instance by Agreement Administrator.

Section 6.08 Other and Additional Insurance. Operator shall obtain policies with higher limits or carry such additional insurance coverage as the City or Agreement Administrator may reasonably require from time to time, provided such higher limits or additional coverages are commercially available and do not impose any higher insurance premiums or deductibles upon Operator or otherwise impose obligations or liabilities on Operator. Operator further agrees to execute and deliver any additional instruments and to do or cause to be done all acts and things that may be commercially reasonably requested by the City or Agreement Administrator to insure the City and Agreement Administrator properly and fully against all damage and loss as herein provided for and to effectuate and carry out the intents and purposes of this Agreement consistent with the terms and conditions of this Agreement. Should other or additional types of insurance or clauses be procured, including but not limited to Underground Storage Tank / Pollution Legal Liability Insurance, Operator shall furnish new certificates and policies on demand of City or Agreement Administrator. The limits of coverage for all types of insurance available to the Additional Insureds under this Article 6 shall be the greater of (i) the minimum limits set forth in this Article 6 or (ii) the limits provided to Operator under all primary, excess, blanket and umbrella policies covering operations under this Agreement.

Section 6.09 Insurance Policy Requirements.

- (i) All insurance provided by the Operator as required hereunder shall name the Operator as named insured and the City and Agreement Administrator as additional named insureds, additional insureds, and loss payees to the extent, where applicable, of their respective insurable interests in JRB, and the City and Agreement Administrator and their respective directors, officers, agents, members, representatives, officials, and employees as additional insureds on the liability policies, and shall be primary with respect to any other coverage which the City and Agreement Administrator may obtain;
- (ii) The liability insurance policies shall specifically state that it is issued “in accordance with the Agreement dated as of **[INSERT DATE]** between The City Of New York acting by and through the New York City Department of Small Business Services and ;
- (iii) All insurance must be provided by companies that are authorized to issue such policies by the New York State Department of Insurance

and have an A.M. Best rating of at least A- / VII or better by A.M. Best Company acceptable to the Agreement Administrator unless prior written approval is obtained from the Agreement Administrator;

- (iv) All policies shall provide coverage from certified acts of terrorism under TRIPRA (or its successor acts); and
- (v) Each policy of insurance required to be obtained by the Operator as herein provided shall contain to the extent reasonably obtainable and whether or not an additional premium shall be required in connection therewith (i) a provision that no act or omission or negligence of the Operator or any other named insured or violation of warranties, declarations or conditions by the Operator or any other named insured shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained, (ii) an agreement by the insurer that such policy shall not be cancelled or modified without at least thirty (30) days prior written notice (or 10 days notice for non-payment of premium) to the City and Agreement Administrator, (iii) intentionally omitted, (iv) a waiver by the insurer of any claim for insurance premiums against the City or Agreement Administrator or any named insured other than the Operator, and (v) a waiver of subrogation by the insurer of any right to recover the amount of any loss resulting from the negligence of the Operator, the City, the Agreement Administrator, their agents, employees or licensees.

Section 6.10 Premiums: Evidence of Insurance. All policies referred to in this Agreement shall be procured by the Operator at no expense to the City or Agreement Administrator. Duplicate originals of such policies or, to the extent that such duplicate originals cannot be obtained, certificates of insurance with respect to such policies together with copies of such policies, which may be redacted as Operator reasonably determines, shall be delivered to the Agreement Administrator promptly upon receipt from the insurance company or companies, together with proof satisfactory to the Agreement Administrator that the then current installment of the premiums thereon have been paid; provided, that the City and Agreement Administrator shall not, by reason of custody of such policies, be deemed to have knowledge of the contents thereof and no claim will be asserted or prosecuted that such custody or access, or action or inaction by the City or Agreement Administrator with knowledge thereof or otherwise, is a waiver of any rights of the City or Agreement Administrator hereunder or a defense to any default or obligation of cooperation. New or renewal binders and policies to provide coverages or replace policies expiring during the Term, or duplicate originals thereof or certificates of insurance with respect thereto, together with copies of such policies (where available and which may be redacted as Operator reasonably determines), shall be delivered as aforesaid within ten (10) days of the Operator's receipt post effective date, together with proof satisfactory to the Agreement Administrator that the then current installment of the premiums thereon have been paid by the date required by the insurance company. Premiums on policies shall not be financed in any manner whereby the lender, on default or otherwise, shall have the right or privilege of

surrendering or canceling the policies or reducing the amount of loss payable thereunder, unless agreed to by the City or Agreement Administrator; provided, however, that premiums may be paid in installments. For workers' compensation, employer's liability insurance, disability benefits insurance policies and United States Longshoremen's and Harbor Workers Act insurance, Operator shall submit one of the following: C-105.2 Certificate of Worker's Compensation Insurance; U-6.3 -- State Insurance Fund Certificate of Workers' Compensation Insurance; Request for WC/DB Exemption (Form CE-200); equivalent or successor forms used by the New York State Workers' Compensation Board and may not submit ACORD forms. For all insurance other than for workers' compensation, employer's liability, disability benefits and United States Longshoremen's and Harbor Workers Act insurance, Operator shall submit one or more certificates of insurance that certify the issuance and effectiveness of all such policies of insurance, each with the specified minimum limits, and disclose any self-insured retentions and using an ACORD 28 to evidence property insurance. Such certificates of insurance must be accompanied by the provision(s) or endorsement(s) in Operator's policy/ies (including its general liability policy) by which each of the Additional Insureds is an additional insured or loss payee, as required herein and a duly executed "Certification by Insurance Broker or Agent" in the form required by the City and annexed hereto as Exhibit K. Acceptance or approval by the City and/or Agreement Administrator of a certificate of insurance, policy, or any other matter does not waive Operator's obligation to ensure that insurance fully consistent with the requirements of this Article 6 is secured and maintained, nor does it waive Operator's liability for its failure to do so.

Section 6.11 Cooperation. The Operator and the City and Agreement Administrator shall cooperate in the collection of any insurance moneys that may be due in the event of loss. The Operator shall execute and deliver such proofs of loss and other instruments as may be required for the purpose of obtaining the recovery of any such insurance moneys. When submitting a notice to an insurer regarding an occurrence, loss or claim under any policy, the Operator shall specify, to the extent necessary under such policy, that such notice is being made on behalf of the City and Agreement Administrator as well as itself, and shall thereafter provide the City and Agreement Administrator, upon demand, with any response or other correspondence received by it from the insurer regarding such notice, occurrence, loss or claim.

Section 6.12 Additional Policies of Personal Liability Insurance. The Operator shall not carry separate insurance (other than personal injury liability insurance) concurrent in form or contributing in the event of loss with that required by this Agreement to be furnished by the Operator, unless the City and Agreement Administrator are included therein as additional named insureds, additional insureds or loss payees, as appropriate. The Operator promptly shall notify the City and Agreement Administrator of the carrying of any such separate insurance and shall cause the policies therefor or duplicate originals thereof or certificates of insurance with respect thereto together with copies of such policies to be delivered as required in this Agreement.

Section 6.13 Claims under Property Insurance or Builder's Risk Insurance. In the event the City sustains a loss as an insured or loss payee under the Property Insurance or Builder's Risk Insurance policies, the Operator shall provide the insurers with all notices on a timely basis, take all other actions necessary or appropriate to protect the interests of the City, and provide the City and Agreement Administrator with all relevant documentation. The City and Agreement Administrator shall have the right, at the City and/or Agreement Administrator's election, to participate in the prosecution and adjustment of any such claim and in the course of such

prosecution and adjustment. The Operator shall execute all agreements the City and/or Agreement Administrator may reasonably request pursuant to this Section 6.13. Where notice of loss, damage, occurrence, accident, claim or suit is required under a policy maintained in accordance with this Article 6, Operator shall notify or shall cause a third party to notify in writing all insurance carriers that issued potentially responsive policies of any such event relating to any operations, including tenancies, under this Agreement (including notice to commercial general liability insurance carriers for events relating to Operator's own employees) no later than twenty (20) days after such event or as required in the policy provisions, whichever is sooner. For any policy where the Additional Insured is an additional insured, such notice shall expressly specify that "this notice is being given on behalf of New York City Economic Development Corporation [or successor Agreement Administrator as applicable], and the City of New York, and their respective officials, employees, members, directors and officers as additional insureds [and/or loss payees, if applicable] as well as the named insured". Such notice shall also contain the following information to the extent known: the number of the insurance policy, the name of the named insured, the date and location of the damage, occurrence, or accident, and the identity of the persons or things injured, damaged or lost. Operator shall simultaneously send a copy of such notice to Agreement Administrator at the notice address provided herein, and to the City of New York c/o Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007.

Section 6.14 Compliance with Requirements of Insurance Carriers. The Operator shall not violate or permit to be violated any of the conditions or provisions of any insurance policy required hereunder, and the Operator shall so perform and satisfy or cause to be performed and satisfied the requirements of the companies writing such policies so that at all times companies of good standing, reasonably satisfactory to the City and Agreement Administrator, shall be willing to write and continue such insurance.

Section 6.15 Liability Insurance on an "Occurrence" Basis. All liability insurance required to be provided and kept in force by the Operator under this Agreement, except for Employment Practices Liability, shall be written on an "Occurrence" basis; provided, however, that if (i) a basis other than such "Occurrence" basis shall be adopted throughout the insurance industry and (ii) such other basis shall be accepted by the operators of competitive heliports, then the Operator may provide and keep in force liability insurance written on such other basis reasonably satisfactory to the City and Agreement Administrator. If any liability insurance is issued on a claims-made basis, such policy or policies shall have a retroactive date on or before the beginning of the Operator's Improvements, and continuous coverage shall be maintained, or an extended discovery period exercised, for a period of not less than eight (8) years after the termination of this Agreement, unless a replacement policy is secured with a retroactive date prior to this Agreement Commencement Date.

Section 6.16 Property Insurance Proceeds. All proceeds from the Property Insurance shall be applied, in the first instance, to satisfy the Operator's obligation to pay the City or Agreement Administrator under this Agreement (if not otherwise satisfied by the Operator), and shall otherwise be applied to restore JRB or compensate the Operator, City or Agreement Administrator for its Loss or Damage.

Section 6.17 Failure to Procure or Maintain Required Insurance. If the Operator fails or refuses to procure or maintain insurance as required by this Agreement or fails upon request or refuses to furnish the City and Agreement Administrator with required proof that the insurance has been procured and is in force and paid for, the City and Agreement Administrator shall have the right, at the City and Agreement Administrator's election, to direct that the Operator should cease operations immediately, until such time as, and unless such insurance in accordance with the Agreement is procured and maintained by the Operator to the satisfaction of the City or Agreement Administrator. Operator shall be liable for all premiums and other costs incurred.

Section 6.18 The City Rights under Insurance Purchased by Third Parties. In all circumstances relating to Improvements or operations at JRB where a third party (including without limitation contractors or subcontractors of the Operator) is obligated to name the Operator as additional named insured, additional insured and/or loss payee under any insurance policy, the Operator shall, for all such policies, (a) contractually obligate such third person to likewise name the City and Agreement Administrator, and their respective directors, officers, agents, members, representatives, officials, and employees, as additional named insureds, additional insureds or loss payees to the extent where applicable and without regard to privity of contract such that no additional insured endorsement requires a written contract or agreement between the third party and the Additional Insureds, (b) take all reasonable measures to assure that the City and Agreement Administrator are named accordingly, (c) provide the Agreement Administrator upon demand with access to all Certificates of Insurance evidencing such insurance (including the City and Agreement Administrator's coverage thereunder), (d) when it submits any notice to an insurer regarding an occurrence, loss or claim under such policy, specify, to the extent necessary under such policy, that such notice is being made on behalf of the City and Agreement Administrator as well as the Operator, and (e) provide the Agreement Administrator, upon demand, with any response or other correspondence received by it from the insurer regarding such notice, occurrence, loss or claim.

Section 6.19 Minimum Levels of Insurance Purchased by Certain Third Parties.

(a) The Operator shall obligate each of its contractors (and any such contractor's subcontractors) that operate, maintain or service any fuel tanks or fuel distribution systems on JRB to provide contractor's pollution liability insurance protecting itself, the Operator and the City and Agreement Administrator and their respective directors, officers, agents, members, representatives, officials, and employees as additional insureds without regard to privity of contract in an amount no less than five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) aggregate or such higher amount as the Agreement Administrator may require following completion of the final design of the proposed fuel facility, and subject to the same coverage requirements as described in Section 6.02.

(b) The Operator shall cause third party contractors performing work and/or providing services (including the service of alcohol) and/or labor to Operator at JRB to add the City of New York and the New York City Economic Development Corporation, including their respective officers, members, directors, officials and employees, and any other third party as required by the City as additional insureds to their commercial general liability insurance policies and, if applicable, liquor law liability and contractor's pollution liability insurance policies. Such third-party contractors shall also be subject to the same terms and conditions as provided for in

this Article VI as applicable, except those additional insureds shall be named without regard to privity of contract.

Section 6.20 Relationship between Insurance and Indemnification. The obligations of the Operator under Article V shall not be affected in any way by the absence in any case of covering insurance (whether or not required under this Article VI) or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting JRB.

Section 6.21 Insurance Primary and Non-Contributory. All insurance required under this Article VI shall be primary and non-contributing with regard to both the City and Agreement Administrator and their respective directors, officers, agents, members, representatives, officials, and employees, and neither the City nor Agreement Administrator nor their respective directors, officers, agents, members, representatives, officials, and employees will be called upon to contribute to a loss that would otherwise be payable by Operator or Operator's insurer, and shall be exhausted on a vertical basis (including deductibles and self-insured retentions) prior to any insurance (or self-insurance) carried by any of the Additional Insureds.

Section 6.22 Operator's Continuing Liability. Notwithstanding compliance with these insurance provisions, Operator shall be, continue and remain liable for any uninsured destruction, loss or damage resulting from Operator's breach of the covenants of this Agreement. In the event of any such loss or damage for which Operator becomes liable as aforesaid, Operator shall, at its sole cost and expense, promptly repair or replace the property so lost or damaged in accordance with plans and specifications approved by Agreement Administrator; provided however, that such plans and designs shall be substantially identical to the original design of the applicable property. Notwithstanding the foregoing, Agreement Administrator and the City, at their sole discretion, may elect to receive either the actual cash value of the damages or request Operator to rebuild the property to its original condition and design.

Section 6.23 Self-Insurance Program. There shall be no self-insurance program, including a self-insurance retention, with regard to any insurance required unless approved in writing by Agreement Administrator and all self-insured retentions must be disclosed on certificates of insurance. Under no circumstances shall the Additional Insureds be responsible for the payment of any loss deductible or self-insured retention (or any other aspect of a self-insurance program). Further, Operator shall ensure that any such self-insurance program provides the Additional Insureds with all rights that would be provided by traditional insurance under this Article 6, including, but not limited to, the defense and indemnification obligations that insurers are required to undertake in liability policies.

Section 6.24 No Representation as to Adequacy of Coverage. The requirements set forth herein with respect to the nature and amount of insurance coverage to be procured and maintained or caused to be procured and maintained by the Operator hereunder shall not constitute a representation or warranty by the City or Agreement Administrator that such insurance is in any respect adequate.

Section 6.25 Flood Insurance. If JRB includes any structure or building, as defined by the Federal Emergency Management Agency (“FEMA”), in a special flood area designated by FEMA as of date hereof or at any time in the future as a Special Flood Hazard Area (“SFHA”), the Operator is required to procure and maintain the maximum available flood insurance, for each building and its contents separately, that is eligible for coverage through the National Flood Insurance Program (“NFIP”). Flood coverage may also be included within the “All Risk” Property insurance as described in Section 6.03, which shall be deemed to satisfy this requirement. If the building and/or its contents (regardless of whether building is located in a SFHA) are subject to an obtain and maintain flood insurance obligation as a condition to having received federal assistance, then Operator is required to procure, obtain and maintain flood insurance equal to the obtain and maintain obligation, up to the federal assistance amount through a combination of (i) maximum available flood insurance through the NFIP (or the same minimum limit but through commercial insurance carriers if included within the “All Risk” Property insurance – Section 6.03) for each building and the value of its contents separately and (ii) commercial excess policies as required by FEMA. Operator may only procure and maintain limits below the maximum available flood insurance limits if the Replacement Value of the building and its contents are less than the maximum available flood insurance limits. Operator shall assure that the City is listed as named insured on the NFIP or the “All Risk” Property insurance. In the event Operator purchases flood insurance in excess of the limits available under the NFIP or the “All Risk” Property insurance, Operator shall assure that the City and Agreement Administrator are each listed as loss payees under all such policies, including such policies for business interruption insurance.

ARTICLE VII

TERMINATION

Section 7.01 Events of Default. The occurrence of any of the following shall constitute an event of default (“**Event of Default**”) under this Agreement:

- (a) Operator fails to remit Retention Payments or other payment pursuant to Article III or to make any other payments to Agreement Administrator when due and such failure shall continue for a period of ten (10) days after notice thereof from City and/or Agreement Administrator to Operator;
- (b) Operator fails to comply with any applicable federal, state or local safety standards and regulations, or any Environmental Laws with regard to JRB including but not limited to aviation, Berthing Services and Last Mile Freight Delivery Services;
- (c) Operator abandons JRB operation or any part thereof other than by operation of law or Force Majeure requiring vacatur of JRB or request of the City or Agreement Administrator and does not return when permitted by law and/or the City or Agreement Administrator;
- (d) Operator makes an assignment of this Agreement to another Person without the City’s prior written consent (other than in accordance with Section 9.11), or assignment of this Agreement for the benefit of its creditors;

(e) if any of the representations made by Operator in **Error! Reference source not found.** shall be proved to be or shall have been false or misleading in any material respect as of the date made and are not cured within thirty (30) days after delivery of notice thereof from Agreement Administrator;

(f) Operator fails to timely perform the provisions of 4.04; and provide the required bonds pursuant to Section 4.05(j);

(g) Operator fails to perform all the services as expressly provided under this Agreement;

(h) Operator fails to maintain a drug testing program, including random testing as required by the FAA or any other authority with jurisdiction;

(i) Operator becomes insolvent or any bankruptcy, insolvency, reorganization or receivership or similar proceeding is commenced against Operator and is not stayed, discharged or vacated for a period of more than sixty (60) days or Operator commences a voluntary case or proceeding within the meaning of any applicable bankruptcy or similar law;

(j) Failure to replenish the Security Deposit within thirty (30) days of any draw down and written notice to Operator;

(k) Operator fails to comply with monitoring and reporting requirements related to air quality, flight tracking and noise mitigation as set forth in this Agreement;

(l) Operator fails to maintain or cause to be maintained the insurance required to be maintained by Operator pursuant to Article VI, and such failure continues for five (5) Business Days after written notice;

(m) Operator fails to observe or perform or fails to cause to be observed or performed one or more of the terms, conditions, covenants or agreements of this Agreement on Operator's part to be performed or observed not otherwise expressly provided for and such failure shall continue for a period of thirty (30) days after written notice thereof to Operator specifying such failure unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot, by their nature, reasonably be performed, done or removed within such thirty (30) day period, in which case no Event of Default shall be deemed to exist as long as Operator shall have commenced curing the same within the thirty (30) day period and shall diligently and continuously prosecute the same to completion within a reasonable period which shall not exceed ninety (90) days after initial notice to Operator, provided however, if any such failure occurs twice within a twelve (12) month period, the same shall be an immediate Event of Default with no cure period permitted but ten (10) days notice to vacate;

(n) Operator shall file a voluntary petition under the present or any future federal bankruptcy code or any other present or future federal, state or other bankruptcy or insolvency statute or law and such petition shall not be withdrawn within sixty (60) days after the filing thereof, or if such petition shall be filed against Operator and an order for relief shall be entered, or if Operator shall file a petition or an answer seeking, consenting to or acquiescing in,

any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future federal, state or other bankruptcy or insolvency statute or law and such petition shall not be withdrawn within sixty (60) days of the filing thereof, or shall seek, or consent to, or acquiesce in, or suffer the appointment of, any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Operator, or any part of, Operator's interest in any properties including JRB or any agreements Operator has entered into for or in respect of, JRB, or if Operator shall take any partnership or corporate action in furtherance of any action described in this paragraph without written consent of the City or Agreement Administrator; and

(o) Operator fails to perform any covenant, terms or conditions under this Agreement.

Section 7.02 Expiration. In addition to City's right to terminate this Agreement under Section 7.03 and notwithstanding any other provision of this Agreement:

(a) Upon the Expiration Date, Operator shall vacate JRB (subject to the ten (10) days' notice to vacate to the extent expressly provided herein). In the event that Operator abandons JRB or a portion thereof or permits the same to become vacant during the Term of this Agreement (except in the event required by Law or in the case of Suspension imposed by the City requiring vacatur of JRB or Force Majeure requiring vacatur of JRB), this Agreement shall terminate upon the date of such abandonment or vacatur as fully and completely as if that were the date originally set in this Agreement for such termination. Nothing herein contained shall be construed to prevent the City or Agreement Administrator from maintaining an action for damages against Operator by reason of such abandonment or vacatur. In the event that Operator so abandons JRB, Operator shall be liable for any and all damages to City resulting therefrom, including, without limitation, reasonable attorney's fees, and any other monies paid or incurred by City or Agreement Administrator, for service of process, marshal's fees, and all other costs incurred in summary proceedings and the like.

(b) In the event that Operator tenders any partial payments of Retention Payments or any additional charges to Agreement Administrator for a period subsequent to the Expiration Date, the same shall under no circumstances be construed to create or revive any right on the part of Operator to perform services under this Agreement.

(c) In the event that Operator leaves any of its property including, without limitation, trade fixtures, in or upon JRB after the Expiration Date, Agreement Administrator may dispose of same and charge Operator for the cost of such disposal (if it is Operator's obligation hereunder to remove such property) or keep the property as abandoned property.

Section 7.03 Remedies. The City may terminate this Agreement if the Operator fails to cure an Event of Default pursuant to the terms prescribed above and if no time is specified, the City may terminate the same if failure to cure shall continue for a period of thirty (30) days after written notice thereof to Operator specifying such failure unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot, by their nature, reasonably be performed, done or removed within such thirty (30) day period, in which case no Event of Default shall be deemed to exist as long as Operator shall have commenced curing the same

within the thirty (30) day period and shall diligently and continuously prosecute the same to completion within a reasonable period which shall not exceed sixty (60) days after Operator's initial notice, subject to Force Majeure limiting Operator's ability to cure, provided however, if any such failure occurs twice within a twelve (12) month period, the same shall be an immediate Event of Default with no cure period permitted. If this Agreement is terminated under this Article VII, Operator shall immediately cease performing all obligations under this Agreement upon the termination date specified in the notice of termination, which date shall be not less than 10 days after the date of the notice, and vacate JRB pursuant to section 7.02(a). If the Operator fails to cease operations and vacate JRB on the date specified in the notice of termination (subject to the immediately preceding sentence), Operator shall forfeit the full amount of the Security Deposit to Agreement Administrator. The provisions of this Article VII are in addition to and not a limitation of any other right or remedy the City or Agreement Administrator may have under this Agreement, at law or equity, or otherwise. Failure to give notice of an Event of Default, or to terminate this Agreement for failure to timely cure an Event of Default, shall not constitute a waiver of any right afforded under this Agreement, nor shall any such failure constitute an approval of or acquiescence in any default, except as may be specifically agreed to in writing. Termination, whether for convenience or cause, shall not give rise to any cause of action against the City or Agreement Administrator.

Section 7.04 Termination Options.

Subject to Section 2.01(a) above, the City may terminate this Agreement upon twenty-eight (28) days prior written notice to Operator for any reason deemed by the City to be in its interest.

Section 7.05 Condemnation. If JRB is subject to a condemnation proceeding started during the Term of this Agreement, this Agreement shall be deemed to have terminated thirty (30) days after the date of such taking, and Operator will not be entitled to any part of any award therein.

ARTICLE VIII

COMPLIANCE WITH LAW, VENUE AND APPLICABLE LAW

Section 8.01 Compliance with Law.

(a) Operator covenants that it will comply, solely at its cost and expense, with all laws, ordinances, orders, requirements, rules, written policies and regulations (whether imposed upon Operator, Agreement Administrator or the City) of any and all administrations, departments, bureaus and boards of federal, state and city authorities having jurisdiction over JRB and the slips, or water adjacent to JRB, and/or over the use, occupancy and maintenance thereof, including, without limitation, Environmental Laws and laws relating to federal aviation, homeland security and transportation rules and regulations; national safety guidelines; sanitation, fire code, and environmental quality; equal opportunity employment; the NYC Earned Safe and Sick Time Act Concession Agreement Rider (see Exhibit N) and federal, state and municipal tax and withholding laws, except to the extent any such law, ordinance or regulation is preempted by State or Federal law (collectively, referred to as the "Laws"). If steps are taken to enforce any law,

ordinance, or regulation relating to JRB, and Operator in good faith believes such law, ordinance or regulation is preempted, the parties agree to meet promptly upon reasonable notice, and Operator will take such measures that will adequately address such preemption concerns. In the event any change of Laws into final form, being effective without any further action by any federal, state, multi-state, regional, maritime or local legislative, executive, judicial or other governmental board, agency, authority, commission, administration, court or other body, or any official thereof having jurisdiction shall occur after the date of this Agreement that directly or indirectly reduces, interferes or eliminates all or part of the number or type of operations, beyond what is permitted under Laws in effect and as interpreted and enforced as of the date of this Agreement (herein, a “**Change in Law(s)**”), the Operator may be eligible for an Equitable Adjustment pursuant to the terms herein.

(b) Operator shall, at its own expense, procure from all governmental authorities having jurisdiction over the operations of Operator hereunder and shall maintain in full force and effect throughout the Term of this Agreement all licenses, certificates, permits or other authorizations which may be necessary for the conduct of such operations. The City (in its capacity of owner of JRB) or Agreement Administrator shall reasonably cooperate with Operator in connection therewith.

(c) The obligation of Operator to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property at JRB. Such provision is not to be construed as an admission by City that such requirements are applicable to it.

(d) The parties shall, during the Term of this Agreement, for one another’s information, deliver to one another, promptly after receipt of any notice, warning, violation, order to comply or other document in respect of the enforcement of any laws, ordinances, and governmental rules, regulations and orders, a true copy of the same.

(e) Operator shall furnish to Agreement Administrator upon its written request copies of any studies or tests conducted to achieve or determine compliance with laws, ordinances and governmental rules, regulations and orders during the Term of this Agreement.

(f) Operator shall notify Agreement Administrator promptly of any inspections of JRB by the municipal authorities (including the Department of Transportation), and whenever possible, shall notify Agreement Administrator in advance of any scheduled inspections so that a representative of Agreement Administrator may be present. Operator shall deliver copies of any violations to Agreement Administrator within five (5) days of receipt.

(g) Operator shall furnish to Agreement Administrator on a monthly basis a copy of all such applicable documents received or generated within the previous month, including, without limitation, any studies, reports, permits, tests, documents required to be filed with FAA, or other findings performed or otherwise conducted in accordance with and/or to achieve or determine compliance with laws, ordinances and governmental rules, regulations and orders during the Term of this Agreement.

Section 8.02 Governing Law; Waiver of Trial by Jury; Venue. This Agreement will be performed in the State of New York and the parties consent to its interpretation according to the law of the State of New York. The parties agree to be subject to and hereby irrevocably consent to personal jurisdiction in the Supreme Court of New York State in New York County or the Federal Courts in the Southern District of New York in connection with any action, suit or proceeding arising out of this Agreement. To extent permitted by law, the Operator shall waive trial by jury in any action or proceeding or counterclaim brought on any matter whatsoever arising out of or in any way connected with this Agreement, or the use or occupation of JRB. This provision shall survive the expiration or earlier termination of this Agreement.

Section 8.03 Governmental Approval. This Agreement does not grant authority for any operation or use that may require a permit or approval. Operator shall, at its own cost and expense, initiate by appropriate notice, application or petition and thereafter diligently and in good faith prosecute proceedings for the procurement of all necessary and appropriate consents, approvals, or authorizations (or exemptions therefrom) from any governmental agency for the sanction of this Agreement and the activities to be carried on by Operator hereunder. Such compliance includes, but is not limited to, any required review, permit, license or approval by the FAA or the New York City Department of Small Business Services (“**DSBS**”), and/or any other applicable governmental entity.

Section 8.04 Noise Control; Nuisance.

(a) Operator shall comply with all of the rules, regulations, conditions, directives arising out the terms and conditions of this Agreement (including without limitation the procedures pertaining to Exhibit L entitled “Noise Mitigation and Other Issue Procedures”) and 24.201 et. seq. of the Administrative Code of the City of New York (the “**Noise Control Code**”). Operator shall not permit or cause to be permitted, operated, conducted, constructed or manufactured at JRB devices and activities (“**Devices and Activities**”) that would cause a violation of the Noise Control Code.

(b) Operator shall not permit or cause to be permitted, operated, conducted, constructed or manufactured at JRB Devices and Activities that would cause a private or public nuisance; provided, however, that nothing herein precludes Operator from taking the position that any action alleging private or public nuisance is preempted by federal law.

(c) Any such Devices and Activities shall incorporate advances in the art of noise control developed for the kind and level of noise emitted or produced by such devices or activities in accordance with the regulations issued by the Department of Environmental Protection of the City of New York, or its successor.

Section 8.05 Weight Control. Operator must comply with the pier/Barge load restrictions as shown in Exhibit O, which sets forth the maximum load per square foot for the decking/Barge. The maximum single weight and skid or carriage therefore that may be accommodated thereon shall not cause stresses which are greater than normal design stresses for all elements of the decking nor cause lateral thrusts which will endanger the bulkhead wall inshore of the decking. Operator shall submit calculations for review and the load shall be approved by Agreement Administrator. Agreement Administrator may reduce the permitted load

as structural and sub-structural conditions change as Agreement Administrator in its reasonable discretion shall determine, provided that if such reduction in permitted load materially interferes with Operator's operation of JRB as Agreement Administrator in its reasonable discretion shall determine, then the parties shall negotiate in good faith a corresponding reduction in the Retention Payments.

Section 8.06 Investigation.

(a) Cooperation. The parties to this Agreement agree to cooperate fully and faithfully with any investigation, audit, or inquiry conducted by a State or City governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, permit, lease or license that is the subject of the investigation, audit or inquiry.

(b) Refusal to Testify.

(i) If any person has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding and still refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, agreement, contract or license entered into with the City, the State or any political subdivision or public authority thereof, or any local development organization within the City, or any public benefit corporation organized under the laws of the State, then Operator may be subject to a hearing or penalties as set forth in paragraphs (c) and (d) herein or;

(ii) If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or the performance under, any transaction, agreement, lease, permit, contract or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then Operator may be subject to a hearing or penalties as set forth in Sections (c) and (d) herein.

(c) Hearing.

- (i) The Commissioner of DSBS (the “**Commissioner**”) or the agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit or license may convene a hearing, upon not less than five (5) days’ written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.
- (ii) If any non-governmental party to the hearing requests an adjournment, the Commissioner or the agency head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit or license pending the final determination pursuant to paragraph (e) below without the City incurring any penalty or damages for delay or otherwise.

(d) Penalties. The penalties that may attach after the final determination by Agreement Administrator or Commissioner may include, but shall not exceed:

- (i) The disqualification for a period not to exceed five (5) years from the date of any adverse determination for any person or any entity of which such person was a member, shareholder, officer, director, employee or agent at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or
- (ii) The cancellation or termination of any and all existing City contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this Agreement, nor the proceeds of which pledged to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

(e) Final Determination. The Commissioner or agency head shall consider or address in reaching his or her determination and in assessing an appropriate penalty the factors in paragraphs (i) and (ii) below. He or she may also consider, if relevant and appropriate, the criteria established in paragraphs (iii) and (iv) below, in addition to any other information which may be relevant and appropriate.

- (i) The party’s good faith endeavors or lack thereof to cooperate, fully and faithfully with any governmental investigation or audit including, but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming

testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

- (ii) The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.
- (iii) The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.
- (iv) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under (d) above, provided that the party or entity has given actual notice to the Commissioner or agency head upon the acquisition of the interest, or at the hearing called for in (c) above gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the adverse impact such a penalty would have on such person or entity.

(f) Definitions Used in This Section 8.06.

- (i) The term “license” or “permit” as used in this Section 8.06 shall be defined as a license, permit, franchise or concession not granted as a matter of right.
- (ii) The term “person” as used in this Section 8.06 shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.
- (iii) The term “entity” as used in this Section 8.06 shall be defined as any firm, partnership, corporation, association or person that receives monies, benefits, licenses, leases or permits from or through the City or otherwise transacts business with the City.
- (iv) The term "member" as used in this Section 8.06 shall be defined as any person associated with any other person or entity as a partner, director, officer, principal or employee.

(g) In addition to and notwithstanding any other provision of this Agreement, the Commissioner or the agency head may, at his or her discretion, terminate this Agreement upon twenty four (24) hours’ written notice in the event Operator fails to promptly report in writing to the Commissioner of Investigation of the City of New York any solicitation of money, goods, requests for future employment or other benefit or thing of value, by or on behalf of any employee of the City, Agreement Administrator, or other person, firm, corporation or entity for any purpose

which may be related to the procurement or obtaining of this Agreement by Operator, or affecting the performance of this Agreement.

Section 8.07 Review and Approval. The granting of this Agreement is subject to the applicable government review and approval process including, but not limited to, approval of Operator based upon the information provided in either the required Business Disclosure Statement or the required Business Entity Questionnaire and the Principal Questionnaire, whichever is applicable. The aforementioned documents have been completed by Operator and submitted to City prior to or upon execution of this Agreement.

Section 8.08 Conflict of Interest. Operator warrants and represents that no officer, agent, employee or representative of the City or Agreement Administrator has received any payment or other consideration for the granting of this Agreement and that no officer, agent, employee or representative of the City or Agreement Administrator has any interest, directly or indirectly in Operator, this Agreement, or the proceeds thereof. Operator acknowledges that the City and Agreement Administrator is relying on the warranty and representation contained in this Section 8.08 and that the City would not enter into this Agreement absent the same. It is specifically agreed that, in the event the facts hereby warranted and represented prove, in the opinion of the City or Agreement Administrator, to be incorrect, the City shall have the right to terminate this Agreement upon twenty-four (24) hours' notice to Operator and to rescind this transaction in all respects.

ARTICLE IX

MISCELLANEOUS PROVISIONS

Section 9.01 Transition. Operator will work diligently with prior operator and the Agreement Administrator in accordance with the transition plan provided and attached hereto as Exhibit S to ensure a smooth transition for all parties involved.

Section 9.02 No Assurances as to Volume. Operator acknowledges and agrees that the City and Agreement Administrator have not made any representations or assurances with respect to the volume of business which Operator will or may have in the exercise of the rights granted herein during the Term of this Agreement, subject however to the provisions of Sections 2.03 and 8.01 of this Agreement..

Section 9.03 Security. Operator is solely responsible for 24-hour security of JRB and its operation. Operator shall use commercially reasonable efforts to ensure that JRB and its operations are secure and shall coordinate with other users of JRB to ensure the overall security of JRB. All security plans and systems are subject to the approval of Agreement Administrator, not to be unreasonably withheld, conditioned or delayed. Nothing in the foregoing shall be construed to limit any right City police, investigators or other law enforcement or regulatory persons may otherwise have to enter JRB at any time for official purposes in the exercise of their public duties, including but not limited to investigations, searches, inspections, and examinations. Operator shall comply with all applicable federal regulations in the event that passenger screening is implemented at JRB.

Section 9.04 Binding Effect. Subject to the specific restrictions and limitations set forth in other provisions herein, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors, assign, grantees, and legal representatives, but no sale, assignment, mortgage, grant, or lease by Operator of any interest or right given it under this Agreement shall be valid or binding without the prior written consent of the City, except for any of the foregoing made pursuant to Section 9.11 hereof or expressly permitted in this Agreement.

Section 9.05 Beneficiaries. This Agreement and each and every provision hereof are for the exclusive benefit of the City, the Agreement Administrator and Operator and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right in any third person to recover by way of damages or otherwise against either of the parties hereto.

Section 9.06 Waivers and Consents. No consent or approval by the City or Agreement Administrator shall be effective unless previously stated in writing, signed by an authorized officer of the City or Agreement Administrator, and subject to such conditions as the City or the Agreement Administrator may, in their reasonable discretion require or as otherwise provided for this Agreement. No consent or waiver, express or implied, by any party to this Agreement to or of any breach or default by another party to this Agreement in the performance of its obligations hereunder, shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by the breaching party of the same or any other obligations hereunder. Failure on the part of any party to complain of any act or failure to act by another party, irrespective of how long such failure continues, shall not constitute a waiver of any rights hereunder.

Section 9.07 Notices. Except for payments to be made by Operator in accordance with Article III above, all notices, demands, requests, submissions, or other communications which are required to be served pursuant to this Agreement shall be in writing and shall be deemed to have been properly served when mailed by certified or registered mail, return receipt requested, or delivered personally or by overnight hand delivery or other courier service addressed: (a) in the case of Agreement Administrator or the City, to the Executive Vice President for Asset Management and the Director of Aviation, with a copy to the General Counsel of NYCEDC, at One Liberty Plaza, New York, NY 10006, and (b) in the case of Operator, to the [INSERT NAME] with a copy to the [INSERT NAME] at JRB. Each party may designate by notice in writing a substitute party or a new address to which any notices, demands, request, submissions, or communications shall thereafter be served.

Section 9.08 Severability. If any covenant or provision of this Agreement, or any application thereof, shall be invalid or unenforceable, the remainder of this Agreement, and any other application of such covenant or provision, shall not be affected thereby. No controversy concerning any covenant or provision shall delay the performance of any other covenant or provision.

Section 9.09 Headings. All headings and titles in this Agreement are for purposes of identification and convenience only and shall not affect any construction or interpretation of this Agreement.

Section 9.10 Entire Agreement; No Oral Modifications. This Agreement (including the exhibits referred to in this Agreement, which are hereby incorporated in, and deemed to constitute a part of, this Agreement) sets forth the entire understanding of the parties and supersedes all prior and contemporaneous oral or written agreements and understandings with respect to the subject matter. This Agreement may not be amended or modified except by a writing signed by the parties.

Section 9.11 Assignment. Other than as set forth herein, no rights and/or obligations under this Agreement may be subcontracted by Operator without the prior written consent of Agreement Administrator, which will not be unreasonably withheld, delayed or conditioned unless otherwise set forth herein. Except as hereinafter provided in this Agreement, this Agreement and the rights and obligations under this Agreement may not be licensed or assigned by Operator, without the prior written consent of the City, which consent will not be unreasonably withheld, delayed or conditioned. If Operator makes such an assignment without the prior written consent of the City, the City shall have the right, but not the obligation, to terminate this Agreement. Merger, consolidation, purchase of a majority of assets, transfer of a majority of stock or a majority of joint venture or partnership interests in Operator by operation of law or otherwise (but not including (i) any transfer of an indirect interest in Operator that does not result in a change of Control of Operator, or (ii) any transfer of an indirect interest in Operator to a Permitted Person that does result in a change in the Control of Operator provided the power directly or indirectly to direct the day to day management and affairs of Operator does not change), are deemed to be an assignment of this Agreement for purposes of this Section 9.11. Additionally, Operator shall not mortgage or pledge this Agreement or any part thereof, or in any way charge or encumber the rights granted herein, or any part thereof, or issue or grant any agreement or license to use JRB or any part thereof without the prior written consent of the City unless authorized herein, which consent for agreement or license to use JRB will not be unreasonably withheld, delayed or conditioned.

Section 9.12 Dissolution, Merger or Sale of Operator. Operator covenants and agrees that at all times during the Term of this Agreement, it will (i) maintain its corporate existence, (ii) continue to be subject to service of process in the state and either be organized under the laws of the State of New York, or under the laws of any other state of the United States and duly qualified to do business in the State, (iii) not liquidate, wind-up or dissolve or otherwise dispose of all or substantially all of its property, business or assets, and (iv) not consolidate with or merge without the City's consent into another entity or permit one or more entities to consolidate with or merge into it, except as provided in Section 9.11 above.

Section 9.13 Representation and Warranties. Operator hereby represents and warrants to City and Agreement Administrator, as of the Commencement Date, that it is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, has all necessary corporate power and authority to execute, deliver and perform its obligations under this Agreement, is a Permitted Person and this Agreement shall be enforceable against it in accordance with its terms. Operator warrants (i) that the undersigned signatory for Operator has the power and authority to enter into this Agreement on behalf of Operator and to bind Operator to the terms and conditions of this Agreement, (ii) that it has presented to City a certified copy of the resolution of Operator granting and approving that power and authority, (iii) that the principals of the Operator are shown in Exhibit T and are the only principals, (iv) that Skyports,

Inc. will have control of daily operations at JRB; ADP International Americas LLC will have influence over the JRB operations in a number of areas, it being understood that Merchant Aviation, LLC (a subsidiary of ADP International Americas LLC), will have a role in the planning, engineering and construction work of the Improvements, (v) that all information provided by Operator and any direct or indirect owner of Operator as part of the PASSPORT and similar due diligence requirements is true and correct in all material respects, (vi) that the written information that it and principals of Operator have provided is true, accurate and complete in all material respects and with respect to information provided by an unaffiliated third party, to the knowledge of Operator, (vii) to continue being a Permitted Person throughout the Term, (viii) that the execution and delivery of this Agreement will not violate any provision of, or require any filing, registration, consent or approval under, any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to Operator, and (ix) that there are no actions, suits or proceedings pending or, to the knowledge of Operator, threatened against, or affecting Operator, any Affiliate of Operator or a member, partner, director or officer of Operator before any court, Governmental Authority or arbitrator, which may, in any one case or in the aggregate, materially adversely affect the ability of Operator to perform its obligations under this Agreement. Operator acknowledges the City and Agreement Administrator's reliance on the completeness and veracity of the information provided and that it is a material condition to the execution of this Agreement.

Section 9.14 Force Majeure. Whenever a period of time is provided in this Agreement for either party to do or perform any act, said party shall not be liable for any delays due to or resulting from circumstances beyond its control after exercising due diligence to avoid or overcome such circumstances ("Force Majeure"), including without limitation: strikes, lockouts or other work stoppages; extraordinary weather conditions; acts of God; blackouts; acts of war or terrorism; court orders, riots, public disorders and criminal acts of third parties; pandemics; acts of governmental authorities of general applicability including the issuance and implementation of any orders or moratoria related to epidemics or pandemics, or other fire or unavoidable casualty, in each case, only to the extent the same is not attributable to the acts or omissions of Operator. The party experiencing Force Majeure shall take prompt actions to notify the other party of the Force Majeure specifying the cause and extent of the actual delay and any steps taken to mitigate the effects thereof, to remove the causes of Force Majeure and to resume normal operations immediately after such causes have been removed but no later than one year after notice of such Force Majeure event. Nothing in this Section 9.14 shall cause the party affected by the Force Majeure to unfavorably disrupt other operations or enter into what it considers to be any unfavorable labor agreement to remove the causes of the Force Majeure. The suspension of any obligations owing to a Force Majeure shall neither cause the Term of this Agreement to be extended nor affect any rights accrued prior to the Force Majeure.

Section 9.15 Survival. Any and all obligations and/or liabilities of Operator, the City and Agreement Administrator accruing prior to the termination of this Agreement and then outstanding shall survive the termination of this Agreement.

Section 9.16 Earned Safe and Sick Time Act. Operator shall comply with the Earned Sick Time Act, also known as the Paid Safe and Sick Leave Law, as a concessionaire of the City of New York as set forth in the NYC Earned Safe and Sick Time Act Concession Agreement Rider annexed hereto as Exhibit N.

Section 9.17 Workforce Development and M/WBE. The Operator will use commercially reasonable efforts to meet participation by Minority and Women-Owned Business Enterprises (“**M/WBE**”) in connection with the Improvements, as applicable (see **Exhibit P**), and will use commercially reasonable efforts to meet participation in the HireNYC Construction and Permanent Programs (or a successor community hiring and workforce development program in accordance with the New York State Community Hiring legislation, 2023 N.Y. Laws Ch. 669, 11/17/2023, eff. 5/15/2024, and related rules and regulations), as applicable (see **Exhibit U** including **Exhibit U-1** and **Exhibit U-2**).

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

THE CITY OF NEW YORK acting by and through the NEW YORK DEPARTMENT OF SMALL BUSINESS SERVICES

DOWNTOWN SKYPORT LLC

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

**APPROVED AS TO FORM
CERTIFIED AS TO LEGAL AUTHORITY:
FOR THE CITY OF NEW YORK_**

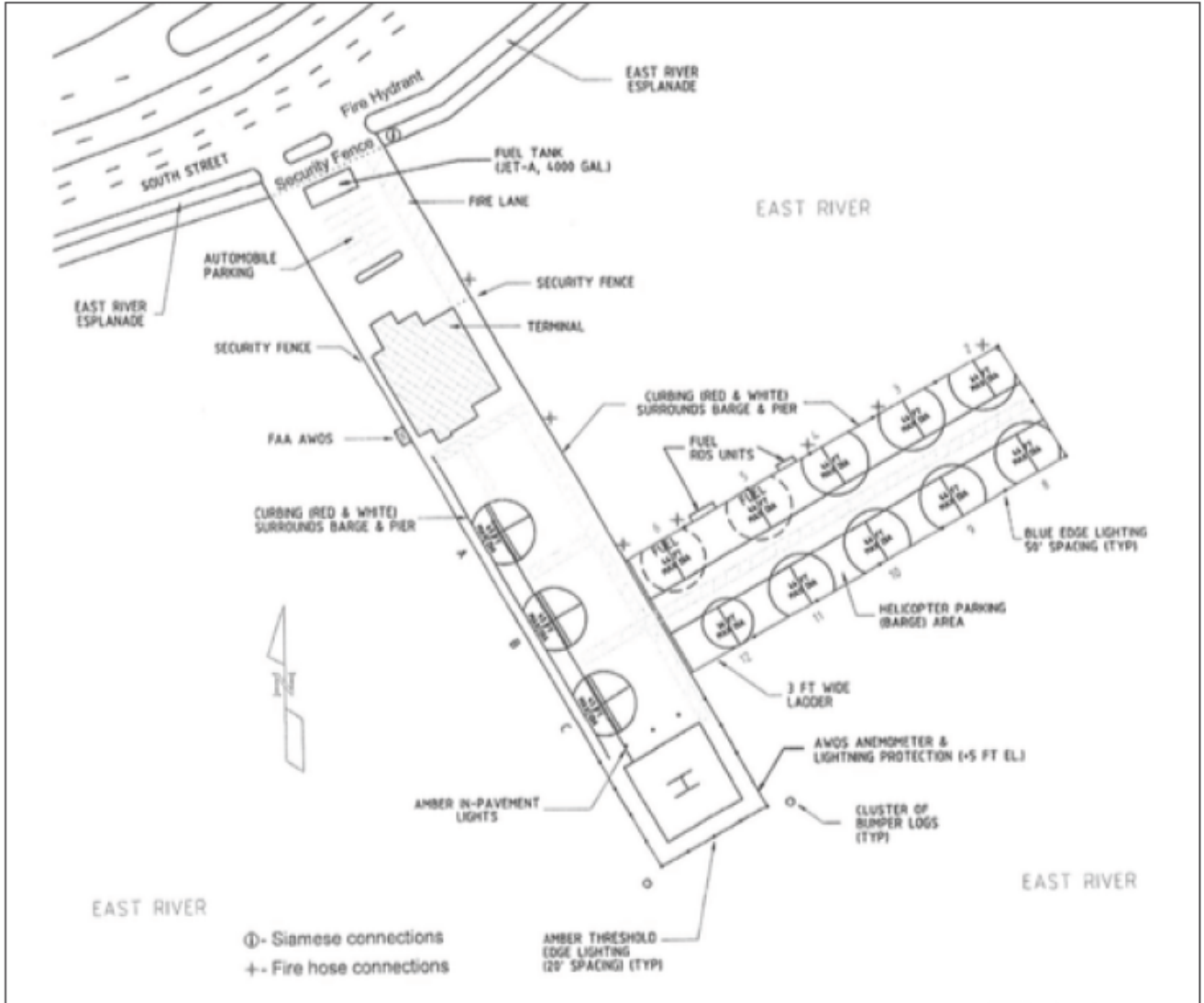
BY: _____

ACTING CORPORATION COUNSEL

Exhibit A

Site Plan

The Heliport's layout depicts the location of JRB's Touchdown and Lift-Off Area (TLOF) and 13 hybrid takeoff/landing & parking spots on both "Pier" & "Barge."



Pier

The Heliport's TLOF (60 feet x 60 feet) is located at the outer end of the Pier, and is designated by an "H" -- the FAA's standard heliport identification symbol. Spots A, B, and C and their associated separation distances are designed for aircraft with a maximum rotor blade diameter of 45 feet (e.g., AW139).

Barge

Spots 2 thru 6 and 8 thru 11 as are designed for aircraft with a maximum rotor blade diameter of 44 feet (e.g., S-76), while spot 12 is designed for rotor blades up to 36 feet (e.g., B206 or AS350). Jet-A fuel is dispensed on barge spots 5 and 6.

Exhibit B

Berthing Plan and Last Mile Freight Delivery Services Plan

I. Overview:

The maritime operation will serve as a feeder service to the Operator's last-mile delivery partner's ("Delivery Partner") supply chain and logistics network. The integration of waterborne freight with micromobility-enabled platforms such as e-Quads aims to enhance Delivery Partner's logistics efficiency in the New York metropolitan area. This operation prioritizes minimal infrastructure investment while maximizing throughput and mitigating congestion. Details of the operation outlined here are indicative and may differ from actual operations.

II. Scope

The scope of Berthing and Last Mile Freight Delivery Services the Operator will provide at the Marine Highway Project Improvements includes the following key services, as further detailed below:

1. Receipt and dispatch for vehicles;
2. Instruction to persons and parties of the safety rules and policies;
3. Removal of snow and ice from areas of the infrastructure in active use;
4. Removal of all foreign objects from areas of the infrastructure in active use;
5. Accurate logging of all feasible information regarding support of berthing and last mile freight delivery vehicles

III. Vessel Activity and Berthing Operations:

Berthing Site:

Location: Spud barge at JRB, as agreed to by Operator and Agreement Administrator.

Operational Integration: Coordination between maritime and aviation operations is critical to avoid conflicts between marine vessel and Aircraft activities.

Schedule of Operations:

There are four delivery windows when vessels will dock for loading/unloading e-Quads and freight:

Delivery Window	Time	Marine Vessel Activities	Disembark (Roll-Off)	Embark (Roll-On)	Parcels Delivered
#1	0700	Vessel arrives at spud barge for unloading	60 e-Quads (loaded)	0 e-Quads	7,200
#2	1200	Vessel arrives for exchange	15 e-Quads (loaded)	60 e-Quads (empty)	1,800
#3	1500	Vessel docks for exchange	15 e-Quads (loaded)	15 e-Quads (empty)	1,800
#4	2300	Vessel arrives for reloading	0 e-Quads	15 e-Quads (empty)	0

Key Operational Phases:

Staging Operations:

- **Pre-loading at Feeder Sites:**

- E-Quads are loaded with freight containers at external feeder sites (e.g., feeder sites located in Brooklyn, NY or New Jersey).
- Delivery Partner teams handle sortation and micro-consolidation to minimize time spent at the spud barge.

- **Roll-on of e-Quads:**

- E-Quads are “rolled on” to the marine vessel for transportation to the JRB spud barge.

Maritime Freight Operations:

- **Transportation:**

- The vessel transports the loaded e-Quads across the waterways.

- **Arrival at JRB:**

- First wave of Delivery Partner Delivery Associates (“DAs”) arrives and queues at the spud barge.
- DAs “roll-off” the e-Quads from the vessel for landside delivery.

- **Coordination with Aviation Operations:**

- Real-time communication between JRB Operations Manager and Delivery Partner personnel will ensure safe coordination between vessel and aircraft activities.
- A permanent FAA Notice to Air Missions (NOTAM) will ensure pilots are aware of maritime operations during delivery windows.

Upland Delivery Operations:

- **Roll-off of e-Quads:**

- DAs, arriving in groups of 10 to minimize congestion, disembark the e-Quads.
- After scanning containers, DAs follow pre-programmed, optimized delivery routes via the e-Quads.

Reverse Logistics:

- **Return of e-Quads:**

- Once delivery routes are completed, DAs return with empty e-Quads to be reloaded onto the marine vessel for transport back to the feeder site.

IV. Coordination and Deconfliction of Operations:

Aircraft Deconfliction:

The primary concern is ensuring safety during any overlapping aviation and maritime operations.

- **Communications:**

- Redundant communication channels will be employed to notify pilots and vessel operators of upcoming maritime operations.
- Staff on-site will tactically deconflict any approaching vessels and prioritize aviation safety during or around scheduled operations.

- **NOTAM and Notices to Mariners:**

- A NOTAM will be issued to cover fixed maritime delivery windows and aviation operations.
- Notices to Mariners will ensure that local vessel captains are aware of the spud barge's activity.

V. Dwell Time Considerations:

- The target dwell time for marine vessels at the spud barge is 10 minutes. This is achievable through:
 - Pre-sorted freight at feeder sites.
 - Expedited “roll-off” and “roll-on” processes, minimizing the time DAs spend loading or unloading e-Quads.
 - Direct ingress/egress enabled by gangway dimensions and unobstructed paths for DAs.

VI. Staffing Plan:

Delivery Partner will staff the last-mile delivery operation using full-time and part-time employees, ensuring a consistent workforce for the duration of the project. The estimated headcount, based on the All-Bike scenario and demand modeling, includes personnel assigned to microhubs, delivery routes, and flow management at the JRB site.

Estimated Headcount Breakdown:

Location	Position	Estimated Headcount
Microhubs	Manager	1
Microhubs	Delivery Associate	4
JRB Site	Flow Expediter	2
Delivery Routes	Delivery Associate	90
Total		97

- **Microhub Manager:** Responsible for overseeing operations at the microhubs, coordinating with Delivery Partner’s central logistics team, and ensuring smooth loading and dispatching of e-Quads to meet delivery windows.
- **Microhub Delivery Associates (4):** Handle sorting, loading, and staging of e-Quads at the microhubs before they are dispatched on their delivery routes. They will work closely with the Microhub Manager and the JRB Flow Expeditors to ensure timely loading and unloading.
- **JRB Flow Expeditors (2):** Positioned at the JRB site, the Flow Expeditors will manage the flow of e-Quads arriving from the spud barge. They will coordinate the roll-on/roll-off of e-Quads and ensure smooth transit for DAs between waterborne operations and landside delivery routes.
- **Delivery Associates (90):** Critical to the last-mile operations, these DAs will be responsible for completing pre-programmed, optimized delivery routes from the JRB microhub and other distribution points throughout Lower Manhattan. They will handle the roll-off, scanning, and delivery of parcels to final destinations, as well as reverse logistics to return empty e-Quads back to the JRB site.

VII. Microhub Operations:

Delivery Partner will operate microhubs at strategic locations across Lower Manhattan. These microhubs serve as logistical nodes where freight will be staged, sorted, and loaded onto e-Quads for the last-mile delivery.

Microhub Workflow:

- **Freight Arrival:** Freight containers arrive from feeder sites (e.g., Brooklyn, New Jersey) via the spud barge.
- **Sorting & Consolidation:** Microhub Delivery Associates will perform micro-consolidation and sorting, ensuring parcels are grouped by destination to minimize delivery times.
- **e-Quad Loading:** Pre-sorted freight is loaded onto e-Quads, ready for dispatch.
- **Dispatch:** The e-Quads are released for delivery based on pre-programmed routes.

Operational Focus:

- Maximize throughput while avoiding congestion.
- Coordinate with JRB Flow Expeditors to ensure seamless e-Quad transfers from the marine vessel to the microhubs.
- Adjust microhub capacity in real-time according to the volume of parcels and deliveries per shift.

VIII. Delivery Route Operations:

Once freight is sorted and e-Quads are loaded, DAs are tasked with executing the last-mile delivery using optimized routing software to ensure efficiency and timely service.

Key Responsibilities of DAs:

- **Parcel Scanning & Routing:** Upon receiving their assigned e-Quads, DAs will scan each container, verifying the parcel information and route.
- **Delivery Execution:** DAs will follow pre-programmed delivery routes designed by Delivery Partner's platform. These routes are optimized based on traffic conditions, delivery windows, and parcel priority.
- **Reverse Logistics:** After completing deliveries, DAs will return with empty e-Quads to the JRB site for reloading and preparation for reverse transport back to the feeder site.

Fleet Management:

- The operation will primarily use e-Quads for delivery, which are lightweight, maneuverable, and capable of navigating the narrow streets of Lower Manhattan.
- **Fleet Size:** The number of e-Quads in circulation is determined by the daily demand, with 60 e-Quads disembarking from the marine vessel in the 0700 delivery window and returning through reverse logistics by the end of the day.

IX. Marine Vessel Operations:

Vessel Characteristics:

- **Bow-loading configuration:** Optimized for roll-on/roll-off of up to 60 e-Quads.
- **Dual gangways/ramps:** Facilitates quick ingress/egress for DAs from the pier to the spud barge.
- **Modified Ferry:** The vessel is a retrofitted ferry vessel that accommodates Delivery Partner's e-Quads while operating at high speeds (~26.5 knots).

Key Vessel Operations:

- **Operational Efficiency:** By using lightweight, modified ferry vessels, it prioritizes minimal dwell times at the pier and quick turnaround between waterborne freight and landside operations.

- **Loading and Unloading Time:** Approximately 45-60 minutes per window, accounting for vessel tie-up, tie-down, and the roll-on/roll-off operations.
- **Reverse Logistics Focus (2300 window):** Primarily used for returning empty e-Quads back to feeder sites, with no upland delivery activities during this window.

X. Integration of Vessel and Last-Mile Operations:

Vessel to Last-Mile Workflow:

1. **Vessel Arrival and Docking:** Vessels dock at the JRB spud barge during designated delivery windows (0700, 1200, 1500, and 2300).
2. **Roll-off of e-Quads:** DAs board the vessel, roll-off fully loaded e-Quads, scan the freight containers, and prepare for immediate dispatch.
3. **Flow Expeditors:** Positioned at the spud barge, flow expeditors will guide the ingress/egress process and ensure smooth transitions between marine and landside operations.
4. **Reverse Logistics:** Empty e-Quads are loaded back onto the vessel during the 1200, 1500, and 2300 windows for transport back to feeder sites.

XI. Deconfliction of Aviation & Maritime Operations:

To ensure safety and efficiency at JRB, the Delivery Partner will implement a three-phase deconfliction process, starting with complete segregation of operations and gradually evolving to simultaneous aviation and maritime operations.

Phase I: Initial State (Complete Segregation)

- **Maritime windows (0700, 1200, 1500, and 2300):** No aviation operations will be scheduled during these times, ensuring full use of JRB for maritime freight operations.
- **Safety Measures:**
 - Publicly disseminated operational schedules to aircraft operators.
 - Communication protocols established between maritime and aviation personnel.
 - NOTAMs published for pilots.
- **Regulatory Compliance:**
 - FAA regulations for aviation operations.
 - USCG regulations for vessel movements.

Phase II: Joint Operations (Concurrent Aviation & Maritime Activities)

- **Operational Adjustments:** Introduce overlap windows where both maritime and aviation operations can occur concurrently but within reasonable limits.
- **Safety Measures:**
 - Risk assessments and joint safety drills.
 - Enhanced communication systems between vessel and JRB personnel.
- **Regulatory Coordination:** Seek approvals from the FAA and USCG for concurrent operations and implement infrastructure upgrades as needed.

Phase III: Simultaneous Operations

- **Full Integration:** Both operations will occur concurrently without time restrictions.
- **Advanced Safety:**
 - Collision avoidance systems and real-time monitoring of vessel and aircraft movements.
 - Integrated control center coordinating maritime and aviation operations.

XII. Vessel Turnaround & Dwell Times:

Efficient vessel turnaround is key to minimizing downtime and ensuring smooth operations between maritime and landside deliveries. The optimized roll-on/roll-off system ensures a 45-60 minute loading/unloading process per window, with most vessel tie-up activities handled quickly.

- **Window #1 (0700):** Disembark 60 fully loaded e-Quads.
- **Window #2 (1200):** Disembark 15 e-Quads, embark 60 empty e-Quads.
- **Window #3 (1500):** Disembark 15 e-Quads, embark 15 empty e-Quads.
- **Window #4 (2300):** Embark 15 empty e-Quads for reverse logistics.

XIII. Safety and Compliance:

1. Delivery Partner will ensure that all operations comply with FAA and USCG safety regulations. Regular safety audits, drills, and the installation of advanced communication systems will ensure smooth deconfliction between the maritime and aviation activities.

Exhibit C

NEGATIVE DECLARATION DATED February 6, 2023, AND ENVIRONMENTAL
ASSESSMENT STATEMENT, CEQR NO. 22SBS006M

DRAFT



NEGATIVE DECLARATION

Kevin D. Kim
Commissioner

1 Liberty Plaza
New York, NY 10006
212-513-6300 tel
212-618-8865 fax

CEQR NUMBER: 22SBS006M
DATE ISSUED: February 6, 2023
NAME: Downtown Manhattan Heliport FreightNYC Project
CEQR CLASSIFICATION: Unlisted
LOCATION: 1 Pier 6
Manhattan
Community District 1
Block 2, Lot 23

DESCRIPTION:

The Applicants, the New York City Economic Development Corporation (NYCEDC) and the New York City Department of Small Business Services (SBS) (collectively the “City”), are undergoing a public procurement to select a new operator (the “Concessionaire”) of the Downtown Manhattan Heliport (DMH) at Pier 6, in Lower Manhattan (Block 2, Lot 23). The Concessionaire will go through the Franchise and Concession Review Committee (FCRC) process to operate the Heliport (the “Proposed Action”), which is a discretionary action subject to the City Environmental Quality Review (CEQR).

The City proposes to establish a last-mile delivery operation on the existing Heliport pier as part of the Concessionaire Agreement, as well as renew the existing heliport operations, which would continue to operate as they are currently with no change to the volume or timing of the helicopter operations. The Proposed Action would establish a floating freight barge landing for docking the marine vessel, as well as a gangway to connect the Heliport pier and the barge landing that would be able to rise and fall with the tides. The last-mile operations would utilize marine vessels to transport pre-loaded zero-emission vehicles (cargo bicycles) to a new permanent floating barge to be installed on the north side of the Heliport pier. The last-mile delivery facility may also use cargo vans, which would wait on the pier for the arrival of the marine vessel in the morning, be loaded with packages transferred from the vessel, and proceed on delivery routes in Lower Manhattan. It is assumed that 80 percent (or more) of the deliveries would be by electric cargo bikes, and approximately 20 percent of deliveries would be made by electric or traditional cargo vans. The operations would be limited to up to three marine vessel deliveries per day, tentatively at 7 AM, 12 PM, and 3 PM. The Concessionaire Agreement would seek to renew the existing Heliport operations and would ensure that it would not be affected by the addition of a last-mile delivery operation; therefore, the Heliport would continue to operate as at present, with uninterrupted use for its primary aviation operations. The freight operation is assumed to be operational by 2023.

The Concessionaire is expected to make cosmetic improvements to the interior of the building at the heliport and replace mechanical in-kind. The envelope of the building will not change. Additionally, the eventual freight operator will explore the feasibility of electric vehicle (“EV”) battery charging on the pier, in order to support the freight operation.

Since the Concessionaire has not been selected at the time of finalizing the Environmental Assessment Statement (EAS), conservative assumptions have been made to capture a reasonable worst case regarding the freight operations. Once the Concessionaire is selected, they would be responsible for ensuring that the freight operations are aligned with the assumptions presented in the EAS. If any new elements are proposed that are out of scope with the EAS assumptions, then they would be subject to additional environmental review and approval pursuant to CEQR.

Statement of No Significant Effect

Pursuant to Executive Order 91 of 1977, as amended, and the Rules of Procedure for City Environmental Quality Review, found at Title 62, Chapter 5 of the Rules of the City of New York and 6NYCRR, Part 617, State Environmental Quality Review, the New York City Department of Small Business Services assumed the role of lead agency for the environmental review of the Proposed Action. Based on a review of information about the project contained in an Environmental Assessment Statement (EAS) dated February 6, 2023, the New York City Department of Small Business Services has determined that the Proposed Action would not have a significant adverse impact on the environment.

Reasons Supporting this Determination

The above determination is based on information contained in the EAS dated February 6, 2023 and incorporated by reference herein. The EAS finds that the Proposed Action would not have a significant adverse impact on the environment. The following areas screened out of CEQR analyses based on the scope of the Proposed Action and were found not to have a significant adverse impact: Socioeconomic Conditions, Community Facilities, Shadows, Historic and Cultural Resources, Water and Sewer Infrastructure, Solid Waste and Sanitation Services, Energy, Greenhouse Gas Emissions, Noise, Neighborhood Character, and Construction. Reasons supporting the determination of no significant adverse impact on the areas of Land Use, Urban Design, Natural Resources, Hazardous Materials, Transportation and Air Quality are provided below.

Land Use: A detailed analysis related to land use is included in this EAS. In the With Action scenario, the Proposed Action would facilitate a green last-mile delivery operation for marine vessels to transport freight for local delivery at a new permanent floating barge landing off the existing Heliport at Pier 6. The Proposed Action would not displace any land uses from the Project Site. The existing heliport uses on the Project Site would remain in place, and there would be no change to the existing heliport operations. The Proposed Action would require minimal modification to the East River to install piles needed to secure the new floating barge landing and associated gangway. The proposed spud barge landing and gangway would comprise an estimated 3,805 square feet (sf) of overwater coverage in the East River. Given the minor scope of the realignment of the parking lot and pier, the creation of the new last-mile delivery facility would not substantially affect land use patterns. The Proposed Action would not affect the existing zoning of the Project Site or study area. Therefore, the Proposed Action would not result

in any significant adverse impacts to land use or zoning. With respect to public policy, the Proposed Action would be consistent with the policies of the City's Waterfront Revitalization Program (WRP), ONENYC, Delivering Green, and the Vision 2030 Comprehensive Waterfront Plan.

Urban Design: An analysis related to urban design and visual resources is included in this EAS. The urban design study concludes that the Proposed Action would not result in any significant adverse impacts to the urban design and visual resources of the Project Site or study area. The proposed delivery operation would use the existing curb cuts at the entrance off South Street. The proposed barge landing and gangway would be additional maritime features of the existing L-shaped pier that contains landing pads for helicopters and a two-story terminal building. There would be no changes to the existing terminal building or the pier, other than having the gangway attach to the pier by the north side of the building. Additionally, Pier 6 and the DMH terminal building are not considered to be visual resources.

Natural Resources: An analysis of natural resources is included in this EAS. Given that the Proposed Action would involve installation of piles and fenders or dolphins to support a floating freight barge landing facilitating the mooring of marine vessels for a green last-mile delivery operation, the natural resources study assessed the potential impacts of the proposed installation on the floodplain, water quality, and natural resources. The Proposed Action would be resistant to 1 percent annual chance storm events and would not affect flood levels, flood risk, or the flow of flood waters within the Project Site or the surrounding area. The Proposed Action would not have direct impacts on New York State Department of Environmental Conservation (NYSDEC) wetlands, as the piles and barge landing would be installed in waters deeper than 6 feet at mean low water (MLW). In-water construction activities would be completed over approximately 8 to 12 weeks and would be conducted in accordance with any restricted periods established to protect spawning winter flounder (January 15 through May 31) and/or migrating anadromous species (March 1 through June 30).

Construction and operation of the Proposed Action would not result in impacts to the limited vegetation adjacent to Pier 6 along the Greenway. There is no terrestrial habitat on the pier itself, and the addition of a gangway to connect the pier to the barge landing would not result in loss of habitat. The Proposed Action would not result in impacts to water quality, aquatic habitat, or aquatic biota, and therefore would not have adverse impacts on the essential fish habitat. Additionally, the construction and operation of the Proposed Action would not have the potential to result in significant adverse impacts to federally protected species.

Once the Freight Operator is selected, the operator would be responsible for obtaining the required NYSDEC and U.S. Army Corps of Engineers (USACE) permits and updating any CEQR assumptions or determinations to secure such permits, at which time the scope of in-water construction will be confirmed. Therefore, the assessment of in-water construction presented in the EAS is based on conservative estimates that will be revisited and refined during the permitting process.

Hazardous Materials: An analysis related to hazardous materials is included in this EAS. Construction of the Proposed Action includes in-water pile installation for the barge landing and would result in an increase in temporary, localized suspended sediment that would dissipate shortly after sediment disturbing activities. The installation of the barge

landing would require authorization/permitting by USACE under Section 404 of the Clean Water Act, as well as permitting in accordance with NYSDEC under Article 15 Protection of Waters Act. Appropriate NYSDEC permitting would be obtained which would demonstrate compliance of Section 401 of the Clean Water Act.

With these measures included as part of the Proposed Action, no significant adverse impacts related to hazardous materials would occur.

Transportation: A screening assessment for transportation is included in this EAS. Under the hybrid, all-bike, and all-van scenarios, the incremental trips generated would not exceed the 2021 CEQR Technical Manual analysis threshold of 50 or more peak hour vehicle trips at a single intersection in any peak hour. In addition, the effect on street user safety will be managed by NYCEDC and the Freight Operator through an operational and physical layout plan which is currently being developed. Therefore, there would be no significant adverse transportation impacts with the Proposed Action.

Air Quality: A preliminary analysis related to air quality is included in this EAS. As detailed in the transportation screening, the Proposed Action would not significantly alter traffic conditions. Additionally, the Proposed Action would not involve the addition of any new stationary emission sources. Therefore, there is no potential for mobile- or stationary-source impacts from the Proposed Action. The analysis of potential air quality impacts focuses on the nitrogen dioxide (NO₂) and particulate matter (PM) emissions from the proposed marine freight service itself, including the effect of marine vessel engines on pollutant concentrations near the existing Heliport at Pier 6 (microscale analysis). The results of the EPA AERMOD analysis concludes that there are no exceedances of the NO₂ 1-hour National Ambient Air Quality Standard (NAAQS) and the maximum predicted incremental concentrations of PM_{2.5} are not predicted to exceed the CEQR *de minimis* criteria. Therefore, based on the results of the analysis, the Proposed Action would not have the potential to result in any significant adverse air quality impacts.

No other significant effects upon the environment that would require the preparation of a Draft Environmental Impact Statement are foreseeable.

This Negative Declaration has been prepared in accordance with Article 8 of the New York State Environmental Conservation Law (SEQRA).

Anthony Dellolio

Anthony Dell'Olio, General Counsel

February 6, 2023

Date

Exhibit D

Incentivization Plan

Objective: To encourage a shift in aircraft operations at JRB from predominantly helicopter air-tour operators to quieter and more sustainable Aircraft, the Operator will employ the following incentivization methods.

I. Operational Policy

The Operator, in collaboration with Agreement Administrator, will gradually reduce the number of landing slots granted to Tourist Flight Operations by helicopters, making way for increased eVTOL operations, as the Aircraft are certified and become commercially available. This transition will be designed to align with the gradual ramp-up of eVTOL availability and capabilities.

II. Economic Incentives

To promote the adoption of quieter and more sustainable aircraft, a tiered landing fee structure will be implemented. To the extent it is allowed by law, eVTOL landings will be priced below helicopter tour and transport landings. Thus, aircraft operators will be able to achieve lower infrastructure costs for eVTOLs vs helicopters.

III. Airfield Infrastructure

As part of the planned Capital Expenditures, charging infrastructure and other supportive infrastructure for electric aircraft will be installed as part of airfield reconfiguration efforts. Infrastructure upgrades will be carried out to meet the specific performance characteristics of eVTOLs and to comply with FAA industry guidance and regulations. These improvements will ensure that JRB is equipped to support a growing eVTOL fleet.

IV. Terminal Infrastructure

The existing terminal will undergo upgrades to better accommodate diversified operations, including eVTOLs and other hybrid-electric aircraft. Planned improvements include an expanded passenger lounge, and the establishment of segregated passenger flows to separate tour passengers from air taxi passengers, ensuring a smoother and more efficient operation for both use cases.

V. Industry Engagement

The Operator will actively engage with eVTOL manufacturers and operators to ensure their needs are met, including the formation of a "Customer Council" composed of eVTOL operators, manufacturers, and equipment suppliers to provide feedback on infrastructure, operational policies, and other necessary developments. This initiative will ensure that JRB's infrastructure and operational policies align with the evolving requirements of the eVTOL industry.

VI. Local Community Awareness

The Operator will launch a public awareness campaign to educate local stakeholders and communities about the benefits of quieter and more sustainable Aircraft. The Operator will work closely with local communities to promote the benefits of noise reduction and reduced emissions from next generation Aircraft. This engagement will enable public acceptance and help the city transition toward the adoption of quieter aircraft in the New York City area.

VII. Transition Support

During the transition to eVTOLs, the Operator will provide support for the development of new transport use cases, both scheduled and non-scheduled, as Aircraft operators and manufacturers adjust their fleet mix. The transition period will account for the operational "learning curve" as new Aircraft come online.

Exhibit E

Retention Payment/Minimum Annual Guarantee Fee Schedule

Retention Payments due to NYCEDC is equal to the greater of the (i) Minimum Annual Guarantee payment being \$2,750,000 in the first year as increased at a rate of four percent (4%) per annum as set forth in the chart below or (ii) Forty-two and a half percent (42.5%) of Gross Receipts (“Percentage of Gross Receipts”). The Retention Payment will be paid on a monthly basis as outlined below.

The Minimum Annual Guarantee shall be payable in equal monthly installments (“Monthly Payments Due”) on the first day of each month during the Term of this Agreement. If at any time the Percentage of Gross Receipts, as calculated on a year-to-date basis, is greater than the Retention Payments paid year-to-date, then, in addition to the Monthly Payments Due, the Operator shall thereafter pay the difference between the Percentage of Gross Receipts and the Retention Payments paid (“The Additional Amount”). The Additional Amount is due on the twentieth (20th) day of each succeeding month in such operating year.

In the final month of the operating year, the Additional Amount will equal the amount to ensure that the annual Retention Payment is equal to the greater of the Minimum Annual Guarantee and Percentage of Gross Receipts for the operating year. If the Additional Amount for the final month of the operating year is negative, it will be applied as a credit to the Additional Amount in the first month of the subsequent year.

Please refer to Section 3.03(f) for certification and auditing requirements.

PERIOD PAYMENTS DUE	MINIMUM TERM GUARANTEE	MONTHLY
Initial Term:		

1	\$ 2,750,000	\$ 229,167
2	\$ 2,860,000	\$ 238,333
3	\$ 2,974,400	\$ 247,867
4	\$ 3,093,376	\$ 257,781
5	\$ 3,217,111	\$ 268,093

Second Term:

6	\$ 3,345,795	\$ 278,816
7	\$ 3,479,627	\$ 289,969
8	\$ 3,618,812	\$ 301,568
9	\$ 3,763,565	\$ 313,630
10	\$ 3,914,107	\$ 326,176

Third Term:

11	\$ 4,070,672	\$ 339,223
12	\$ 4,233,499	\$ 352,792

13	\$ 4,402,839	\$ 366,903
14	\$ 4,578,952	\$ 381,579
15	\$ 4,762,110	\$ 396,843
16	\$ 4,952,595	\$ 412,716
17	\$ 5,150,698	\$ 429,225
18	\$ 5,356,726	\$ 446,394
19	\$ 5,570,995	\$ 464,250
20	\$ 5,793,835	\$ 482,820

All information pertaining to calculations and revenue statements under this Agreement shall be collected and maintained in accordance with GAAP.

Exhibit F

JRB Operations and Maintenance Plan

JRB Operations Plan

The Operator will utilize its established operational manuals and expertise as the baseline for the proposed “JRB Operations Plan”.

As part of the Operator’s Management of Change (MoC), it will do the following:

- Implement a new high-level Concept of Operations (ConOps) to communicate, explain and describe operations in the City of New York. This includes and is not limited to the following:
 - Reference to global regulatory standards
 - Operations team and organization structure
 - Facilities and services
 - Rescue and fire fighting plan
 - Security plan
 - Training and development plan
 - Safety management system
 - Facilities management plan
 - eVTOL transition plan
- Phase in a new Operations Manual and operating procedures to align with global operating standards. This manual will include but not limited to:
 - Passenger services and terminal procedures
 - Airside operations and safety
 - Maintenance and engineering
 - Safety, security and emergency management
 - Flight operations
 - Irregular operations
 - Training and competency management
 - Emergency response plan

Operator will also partner with City agencies and TSA to conduct tabletop security / emergency exercises and regular facility security drills covering the full range of potential threat and emergency response scenarios.

Operator shall modify the planned operations upon reasonable request by the City and/or Agreement Administrator.

JRB Maintenance Plan

The “JRB Maintenance Plan” establishes the parameters and procedures for maintaining all landside, terminal and airside facilities. The plan is designed to maintain the safe, reliable and efficient operation and appearance of the facilities and equipment under Operator’s management and based on both time and usage intervals, of recurring inspections and maintenance tasks including cleaning, corrosion control, lubrications, testing, adjustments and replacement of components, as appropriate to keep JRB’s systems, equipment and facilities in optimal operating condition.

Operator will implement a maintenance plan which will include the following items:

- Daily and Weekly Inspections

- Robust maintenance reporting and follow up procedures
- RFFS, Lighting and GSE Inspection, including annual & OEM maintenance, recorded calibration and testing
- Daily and periodic aviation fuel system and quality maintenance
- Internal audit of maintenance procedures and records
- Maintenance training

Operations personnel will provide routine inspection of all operational surfaces at the beginning of each shift to ensure surfaces are even and there are no holes, cracks or surface deviations that could impair directional control of an Aircraft. Contaminants (dirt, loose aggregate, foreign objects, etc.) will be removed promptly. Additionally, operational surfaces will be properly drained to prevent ponding.

Personnel will ensure prompt removal of any uncontrolled solid objects or materials on airside surfaces that are capable of damaging aircraft, vehicles, structures, or injuring persons. The City's sometimes-harsh winters will make snow and ice control a critical element of the JRB Maintenance Plan. Operator personnel will ensure prompt removal and control of snow, ice, etc. using approved materials. Timely commencement of snow and ice operations will be a requirement as will prompt notification to aircraft when any portion of the pavement is in a less than satisfactory condition.

Wildlife management is also a staple of the JRB Maintenance Plan given the facility's waterfront location. Birds (gulls in particular) have historically been an issue at JRB, and the Operator implemented a variety of mitigations to minimize potential aircraft impacts, including posting fake owls and painting large birds on the ramp to scare the gulls away. Operator will continue to follow the procedures previously established at JRB. Operator shall modify the maintenance plans upon reasonable request by the City and Agreement Administrator.

Exhibit G

Air Quality Monitoring Report Template

	Acetaldehyde	1,3-Butadiene	Benzene
Date of Sampling			
Time of Sampling			
Average Concentration¹			
Permissible Exposure Level (PEL)	200,000 ppbv ² TWA ³	1,000 ppbv TWA 5,000 ppbv STEL ⁴	1,000 ppbv TWA 5,000 ppbv STEL ⁵
Is Pollutant Within Safe Parameters	Y/N	Y/N	Y/N

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Exhibit G-1

Noise Complaint Report Template

To be added once template is agreed upon after consultation with NYC Council Committee on Economic Development.

DRAFT

Exhibit H
Special Rates Schedule

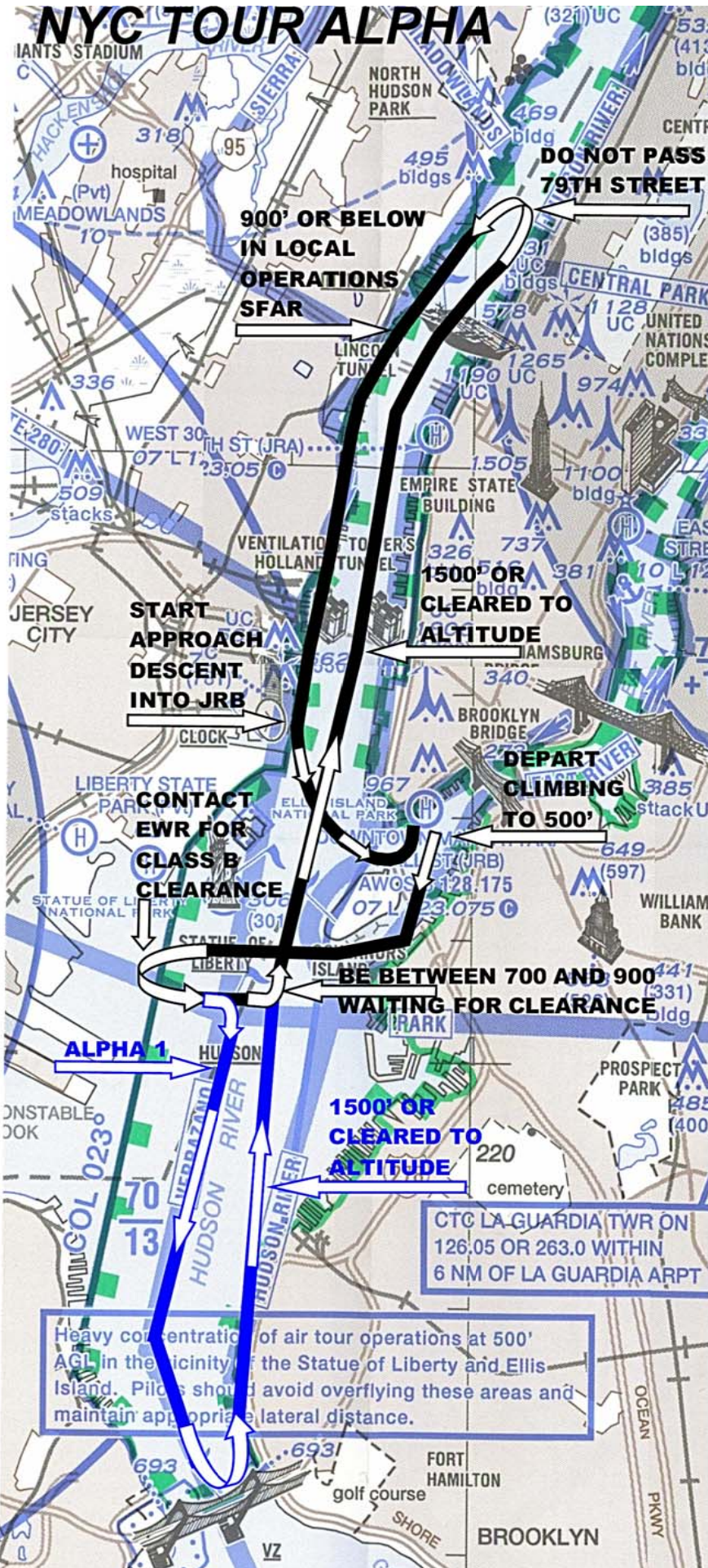
DRAFT

Exhibit I

Helicopter Sightseeing Plan

DRAFT

NYC TOUR ALPHA



Depart JRB towards the cruise ship terminal climbing to 500'. **DO NOT OVERFLY THE CRUISE SHIP.** Stay mid-river over Buttermilk channel turning to the east tip of the southernmost pier on the east side of Governors island. Turn towards the south side of the statue keeping your 1000' standoff.

ALPHA:

Make a wide left hand climbing course reversal on the south side of the statue while contacting EWR Tower and request the "Hudson River Northbound at 1500'. STAY IN THE SFAR (LOCAL OPERATIONS) UNTIL YOU RECEIVE YOUR CLEARANCE.

Once handed off to LGA, request tour ALPHA

Left hand course reversal at the 79th street boat basin. Make sure the apex of your turn does not extend beyond 79th street. Check out with LGA and change to river frequency to make your call descending to 900' or below

You must be below 1300' abeam the south end of Central Park to stay out of EWR's Class B.

Continue at 900' or below to the Colgate Clock.

Make your call inbound to JRB and fly mid-river between Governors Island and the south tip of Manhattan as you make your approach.

ALPHA 1:

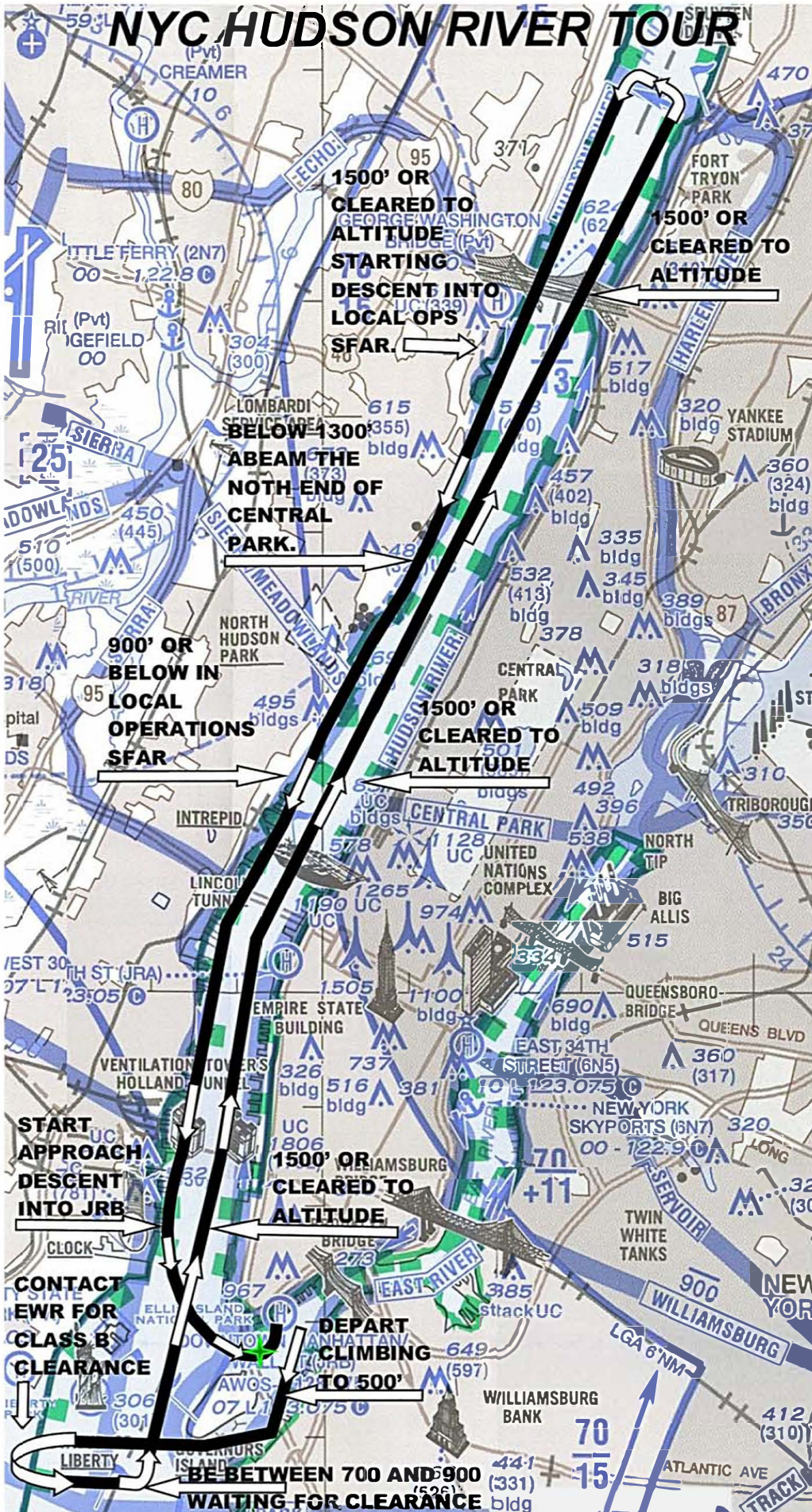
Make a wide left hand climbing course reversal on the south side of the statue while contacting EWR Tower and request the "Hudson River Southbound at 1500'. STAY IN THE SFAR at 900' or below (LOCAL OPERATIONS) UNTIL YOU RECEIVE YOUR CLEARANCE. Come off the Statue on the South side to join the Verrazano route to the Verrazano Bridge.

Make a left hand course reversal on the north side of the Verrazano Bridge to rejoin the Hudson River Northbound at 1500'

Once handed off to LGA request Tour Alpha and follow the Alpha Route back to JRB.

If ceilings are below 1500' all Tours will be conducted in the SFAR at 900' or below.

All altitudes and or route segments can be modified to avoid any safety of flight issues.



Depart JRB towards the cruise ship terminal climbing to 500'.

DO NOT OVERFLY THE CRUISE SHIP.

Stay mid-river over Buttermilk channel turning to the east tip of the southernmost pier on the east side of Governors island. Turn towards the south side of the statue keeping your 1000' standoff.

Make a wide left hand climbing course reversal on the south side of the statue while contacting EWR Tower and request the "Hudson River Northbound at 1500'.

STAY IN THE SFRA (LOCAL OPERATIONS) UNTIL YOU RECEIVE YOUR CLEARANCE

Once handed off to LGA Tower request "The Hudson River Route"

Continue North Bound (Mid River) to Spuytin Duyvil at your cleared altitude and make a left hand turn on the New Jersey side of the river to go southbound.

Once past the GW Bridge, check out with LGA at your cleared altitude, change to the river frequency and make your call descending into the SFRA.

SFRA LOCAL OPERATIONS 900' OR BELOW.

You must be below 1300' abeam the north side of Central Park to be clear of EWR's Class B airspace.

At the clock make your call inbound to JRB and fly an arc towards the green buoy between the south tip of Manhattan and Governors Island for your approach.

If EWR and or LGA will not clear you to 1500', all tours must be conducted in the SFRA at 900' or below.

If ceilings are below 1500' all tours will be flown in the Local Operations SFRA at 900' or below.

REMEMBER YOUR CLOUD CLEARANCE REQUIREMENTS.

All altitudes and or routes segments can be modified to avoid any safety of flight issue.

Exhibit J

Design, Schedule of Design, and Schedule of Construction Costs for Improvements

Feature	Description	Initial Term	First Renewal Term
Environmental Study	Repayment of EAS conducted by Agreement Administrator	\$129,000	\$-
Terminal Upgrades	Repairs and refurbishment to the terminal to improve passenger experience	\$1,500,000	\$500,000
eVTOL charging	Installation of power systems and charging units for eVTOLs	\$2,000,000	\$1,500,000
Airfield Update	Safety-related repairs and upgrades to the heliport airfield	\$400,000	\$200,000
Marine Highway Project	Design and construction of barge for maritime freight operations	\$600,000	\$-
Technology Upgrades	Hardware and software to improve safety, efficiency, and passenger experience	\$200,000	\$-
Passenger Processing	New systems to improve passenger experience with access control	\$100,000	\$-
Sustainability Initiatives	Sustainable features added to the exterior of the facility	\$100,000	\$-
Greenway Investments	Improvements to the greenway in the vicinity of the heliport	\$100,000	\$-
Maintenance Capex	Miscellaneous maintenance for upkeep of core systems	\$250,000	\$250,000

* Expenditures listed above may be reallocated among budget categories as project savings allow at Operator’s reasonable discretion provided the required scope of work is completed to the satisfaction of Agreement Administrator as required herein or reasonable evidence to the satisfaction of Agreement Administrator showing the scope of work can be completed at the reduced amount is provided to the Agreement Administrator.

**Reimbursement may be provided.

***Not including NEPA or marine related permits obtained by Agreement Administrator in conjunction with the City’s Blue Highway project.

Exhibit K

Certificate of Insurance Broker or Agent

CERTIFICATES OF INSURANCE

Instructions to New York City Agencies, Departments, and Offices

All certificates of insurance (except certificates of insurance solely evidencing Workers' Compensation Insurance, Employer's Liability Insurance, and/or Disability Benefits Insurance) must be accompanied by one of the following:

- (1) the Certification by Insurance Broker or Agent on the following page setting forth the required information and signatures;

-- OR --

- (2) copies of all policies as certified by an authorized representative of the issuing insurance carrier that are referenced in such certificate of insurance. If any policy is not available at the time of submission, certified binders may be submitted until such time as the policy is available, at which time a certified copy of the policy shall be submitted.

CITY OF NEW YORK
CERTIFICATION BY INSURANCE BROKER OR AGENT

The undersigned insurance broker or agent represents to the City of New York that the attached Certificate of Insurance is accurate in all material respects.

[Name of broker or agent (typewritten)]

[Address of broker or agent (typewritten)]

[Email address of broker or agent (typewritten)]

[Phone number/Fax number of broker or agent (typewritten)]

[Signature of authorized official, broker, or agent]

[Name and title of authorized official, broker, or agent (typewritten)]

State of)

) ss.:

County of)

Sworn to before me this _____ day of _____ 20__

NOTARY PUBLIC FOR THE STATE OF _____

Exhibit L

Noise Mitigation and Other Issue Procedures

For the avoidance of doubt, any and all noise mitigation initiatives and other issue procedures listed in this Exhibit L or elsewhere in the Agreement shall be undertaken within the regulatory and legal framework applicable to JRB. Operator shall:

1. Use best efforts to, as appropriate, advise Aircraft operators of a 5 minute running time.
2. Review, monitor and report on noise abatement procedures and utilize noise activity reports and websites.
3. Work directly with the Manhattan Borough President's office and other City agencies on noise mitigation and community concerns, as appropriate.
4. Use commercially reasonable efforts to work with Aircraft manufacturers to incorporate noise mitigation quiet technology in all new Aircraft, and on the development of next generation Aircraft.
5. Install a sound level meter (permanent or portable) at JRB with collected noise data correlated with operational flight logs and flight track data to determine individual Aircraft noise levels.
6. Identify and retain the services of an environmental consulting firm specializing in air quality to develop a monitoring and reporting system for JRB.
7. Use commercially reasonable efforts to develop a plan to incentivize the use of quieter eVTOL aircraft.
8. Maintain membership and actively participate in the Eastern Region Helicopter Council (EHRC) and Vertical Aviation International (VAI) noise abatement program initiatives.
9. Use commercially reasonable efforts to promote, through VAI/ERHC and the FAA's "Fly Neighborly Program", to encourage three or four different dispersal routes, over water only, in and out of the city to the eastern destinations therefore dispersing the traffic noise.

Exhibit M

Tourist Flight Limits

	Helicopter	Tourist Flight Operations: Downtown Manhattan Heliport (monthly)												
	Calendar year 2015	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Row A	2015 Baseline	2319	2216	3413	5732	6456	4607	5645	6673	5487	6979	4766	5008	59301
Row B	Post reduction (50%) Maximum TFO/month	1160	1108	1707	2866	3228	2304	2823	3337	2744	3490	2383	2504	29651

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Exhibit N

Paid Safe and Sick Leave Law Rider

NYC EARNED SAFE AND SICK TIME ACT CONCESSION AGREEMENT RIDER

A. *Introduction and General Provisions.*

1. The Earned Safe and Sick Time Act (“ESSTA”), codified at Title 20, Chapter 8 of the New York City Administrative Code, also known as the “Paid Safe and Sick Leave Law,” requires covered employees (as defined in Admin. Code § 20-912) in New York City (“City”) to be provided with paid safe and sick time. Concessionaires of the City or of other governmental entities may be required to provide safe and sick time pursuant to the ESSTA. The ESSTA is enforced by the City’s Department of Consumer and Worker Protection (“DCWP”), which has promulgated 6 RCNY §§ 7-101 and 201 *et seq.* (“DCWP Rules”).

2. The Concessionaire agrees to comply in all respects with the ESSTA and the DCWP Rules, and as amended, if applicable, in the performance of this agreement. The Concessionaire further acknowledges that such compliance is a material term of this agreement and that failure to comply with the ESSTA in performance of this agreement may result in its termination.

3. The Concessionaire must notify (with a copy to DCWP at ComplianceMonitoring@dcwp.nyc.gov) the Concession Manager in writing within 10 days of receipt of a complaint (whether oral or written) or notice of investigation regarding the ESSTA involving the performance of this agreement. Additionally, the Concessionaire must cooperate with DCWP’s guidance and must comply with DCWP’s subpoenas, requests for information, and other document demands as set forth in the ESSTA and the DCWP Rules. More information is available at <https://www1.nyc.gov/site/dca/about/paid-sick-leave-what-employers-need-to-know.page>.

4. Upon conclusion of a DCWP investigation, Concessionaire will receive a findings letter detailing any employee relief and civil penalties owed. Pursuant to the findings, Concessionaire will have the opportunity to settle any violations and cure the breach of this agreement caused by failure to comply with the ESSTA either i) without a trial by entering into a consent order or ii) appearing before an impartial judge at the City’s administrative tribunal. In addition to and notwithstanding any other rights and remedies available to the City, non-payment of relief and penalties owed pursuant to a consent order or final adjudication within 30 days of such consent order or final adjudication may result in the termination of this agreement without further opportunity to settle or cure the violations.

5. The ESSTA is briefly summarized below for the convenience of the Concessionaire. The Concessionaire is advised to review the ESSTA and the DCWP Rules in their entirety. The Concessionaire may go to www.nyc.gov/PaidSickLeave for resources for employers, such as Frequently Asked Questions, timekeeping tools and model forms, and an event calendar of upcoming presentations and webinars at which the Concessionaire can get more information about how to comply with the ESSTA and the DCWP Rules. The Concessionaire acknowledges that it is responsible for compliance with the ESSTA and the DCWP Rules notwithstanding any inconsistent language contained herein.

B. *Pursuant to the ESSTA and DCWP Rules: Applicability, Accrual, and Use.*

1. An employee who works within the City must be provided paid safe and sick time.¹ Employers with one hundred or more employees are required to provide 56 hours of safe and sick time for an employee each calendar year. Employers with fewer than one hundred employees are required to provide 40 hours of sick leave each calendar year. Employers must provide a minimum of one hour of safe and sick time for every 30 hours worked by an employee and compensation for such safe and sick time must be provided at the greater of the employee's regular hourly rate or the minimum wage at the time the paid safe or sick time is taken. Employers are not discouraged or prohibited from providing more generous safe and sick time policies than what the ESSTA requires.

2. Employees have the right to determine how much safe and sick time they will use, provided that an employer may set a reasonable minimum increment for the use of safe and sick time not to exceed four hours per day. For the use of safe time or sick time beyond the set minimum increment, an employer may set fixed periods of up to thirty minutes beyond the minimum increment. In addition, an employee may carry over up to 40 or 56 hours of unused safe and sick time to the following calendar year, provided that no employer is required to carry over unused paid safe and sick time if the employee is paid for such unused safe and sick time and the employer provides the employee with at least the legally required amount of paid safe and sick time for such employee for the immediately subsequent calendar year on the first day of such calendar year.

3. An employee entitled to safe and sick time pursuant to the ESSTA may use safe and sick time for any of the following:

a. such employee's mental illness, physical illness, injury, or health condition or the care of such illness, injury, or condition or such employee's need for medical diagnosis or preventive medical care;

b. such employee's care of a family member (an employee's child, spouse, domestic partner, parent, sibling, grandchild, or grandparent, the child or parent of an employee's spouse or domestic partner, any other individual related by blood to the employee, and any other individual whose close association with the employee is the equivalent of a family relationship) who has a mental illness, physical illness, injury or health condition or who has a need for medical diagnosis or preventive medical care;

c. closure of such employee's place of business by order of a public official due to a public health emergency;

d. such employee's need to care for a child whose school or childcare provider has been closed due to a public health emergency; or

e. when the employee or a family member has been the victim of a family offense matter, sexual offense, stalking, or human trafficking:

¹ Pursuant to the ESSTA, if fewer than five employees work for the same employer, and the employer had a net income of less than one million dollars during the previous tax year, such employer has the option of providing such employees uncompensated safe and sick time.

1. to obtain services from a domestic violence shelter, rape crisis center, or other shelter or services program for relief from a family offense matter, sexual offense, stalking, or human trafficking;
2. to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members from future family offense matters, sexual offenses, stalking, or human trafficking;
3. to meet with a civil attorney or other social service provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding, including but not limited to, matters related to a family offense matter, sexual offense, stalking, human trafficking, custody, visitation, matrimonial issues, orders of protection, immigration, housing, discrimination in employment, housing or consumer credit;
4. to file a complaint or domestic incident report with law enforcement;
5. to meet with a district attorney's office;
6. to enroll children in a new school; or
7. to take other actions necessary to maintain, improve, or restore the physical, psychological, or economic, health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.

4. An employer must not require an employee, as a condition of taking safe and sick time, to search for a replacement. However, where the employee's need for safe and sick time is foreseeable, an employer may require an employee to provide reasonable notice of the need to use safe and sick time. For an absence of more than three consecutive work days, an employer may require reasonable documentation that the use of safe and sick time was needed for a reason listed in Admin. Code § 20-914; and/or written confirmation that an employee used safe and sick time pursuant to the ESSTA. However, an employer may not require documentation specifying the nature of a medical condition, require disclosure of the details of a medical condition, or require disclosure of the details of a family offense matter, sexual offense, stalking, or human trafficking, as a condition of providing safe and sick time. Health information and information concerning family offenses, sexual offenses, stalking or human trafficking obtained solely due to an employee's use of safe and sick time pursuant to the ESSTA must be treated by the employer as confidential. An employer must reimburse an employee for all reasonable costs or expenses incurred in obtaining such documentation for the employer.

5. An employer must provide to all employees a written policy explaining its method of calculating sick time, policies regarding the use of safe and sick time (including any permissible discretionary conditions on use), and policies regarding carry-over of unused time at the end of the year, among other topics. It must provide the policy to employees using a delivery method that reasonably ensures that employees receive the policy. If such employer has not provided its written policy, it may not deny safe and sick time to an employee because of non-compliance with such a policy.

6. An employer must provide a pay statement or other form of written documentation that informs the employee of the amount of safe/sick time accrued and used during the relevant pay period and the total balance of the employee's accrued safe/sick time available for use.

7. Safe and sick time to which an employee is entitled must be paid no later than the payday for the next regular payroll period beginning after the safe and sick time was used.

C. *Exemptions and Exceptions.* Notwithstanding the above, the ESSTA does not apply to any of the following:

1. an independent contractor who does not meet the definition of employee under N.Y. Labor Law § 190(2);

2. an employee covered by a valid collective bargaining agreement, if the provisions of the ESSTA are expressly waived in such agreement and such agreement provides a benefit comparable to that provided by the ESSTA for such employee;

3. an audiologist, occupational therapist, physical therapist, or speech language pathologist who is licensed by the New York State Department of Education and who calls in for work assignments at will, determines their own schedule, has the ability to reject or accept any assignment referred to them, and is paid an average hourly wage that is at least four times the federal minimum wage;

4. an employee in a work study program under Section 2753 of Chapter 42 of the United States Code;

5. an employee whose work is compensated by a qualified scholarship program as that term is defined in the Internal Revenue Code, Section 117 of Chapter 20 of the United States Code; or

6. a participant in a Work Experience Program (WEP) under N.Y. Social Services Law § 336-c.

D. *Retaliation Prohibited.* An employer shall not take any adverse action against an employee that penalizes the employee for, or is reasonably likely to deter the employee from or interfere with the employee exercising or attempting in good faith to exercise any right provided by the ESSTA. In addition, an employer shall not interfere with any investigation, proceeding, or hearing pursuant to the ESSTA.

E. *Notice of Rights.*

1. An employer must provide its employees with written notice of their rights pursuant to the ESSTA. Such notice must be in English and the primary language spoken by an employee, provided that DCWP has made available a translation into such language. Downloadable notices are available on DCWP's website at <https://www1.nyc.gov/site/dca/about/Paid-Safe-Sick-Leave-Notice-of-Employee-Rights.page>. The notice must be provided to the employees by a method that reasonably ensures personal receipt by the employee.

2. Any person or entity that willfully violates these notice requirements is subject to a civil penalty in an amount not to exceed \$50.00 for each employee who was not given appropriate notice.

F. *Records.* An employer must retain records documenting its compliance with the ESSTA for a period of at least three years, and must allow DCWP to access such records in furtherance of an investigation related to an alleged violation of the ESSTA.

G. *Enforcement and Penalties.*

1. Upon receiving a complaint alleging a violation of the ESSTA, DCWP must investigate such complaint. DCWP may also open an investigation to determine compliance with the ESSTA on its own initiative. Upon notification of a complaint or an investigation by DCWP, the employer must provide DCWP with a written response and any such other information as DCWP may request. If DCWP believes that a violation of the ESSTA has occurred, it has the right to issue a notice of violation to the employer .

2. DCWP has the power to grant an employee or former employee all appropriate relief as set forth in Admin. Code § 20-924(d). Such relief may include, but is not limited to, treble damages for the wages that should have been paid; statutory damages for unlawful retaliation; and damages, including statutory damages, full compensation for wages and benefits lost, and reinstatement, for unlawful discharge. In addition, DCWP may impose on an employer found to have violated the ESSTA civil penalties not to exceed \$500.00 for a first violation, \$750.00 for a second violation within two years of the first violation, and \$1,000.00 for each succeeding violation within two years of the previous violation. When an employer has a policy or practice of not providing or refusing to allow the use of safe and sick time to its employees, DCWP may seek penalties and relief on a per employee basis.

3. Pursuant to Admin. Code § 20-924.2, (a) where reasonable cause exists to believe that an employer is engaged in a pattern or practice of violations of the ESSTA, the Corporation Counsel may commence a civil action on behalf of the City in a court of competent jurisdiction by filing a complaint setting forth facts relating to such pattern or practice and requesting relief, which may include injunctive relief, civil penalties and any other appropriate relief. Nothing in § 20-924.2 prohibits DCWP from exercising its authority under section 20-924 or the Charter, provided that a civil action pursuant to § 20-924.2 shall not have previously been commenced.

H. *More Generous Policies and Other Legal Requirements.* Nothing in the ESSTA is intended to discourage, prohibit, diminish, or impair the adoption or retention of a more generous safe and sick time policy, or the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous safe and sick time. The ESSTA provides minimum requirements pertaining to safe and sick time and does not preempt, limit, or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of safe and sick leave or time, whether paid or unpaid, or that extends other protections to employees. The ESSTA may not be construed as creating or imposing any requirement in conflict with any federal or state law, rule or regulation.

Exhibit O

Pier/Barge Load Restrictions



Exhibit P

M/WBE Participation

NYCEDC encourages meaningful participation by women-owned business enterprises ("WBEs") and minority-owned business enterprises ("MBEs") (WBEs and MBEs collectively referred to as "M/WBEs") in its contracting opportunities. Operator is encouraged to include the use of M/WBEs in the Improvements the requirements for which would apply only towards the design and construction components of the Improvements with a goal of 30% for design and construction projects.

In order to be considered M/WBEs, the M/WBEs must have received certification as such by the New York City Department of Business Services ("DSBS"). Businesses that have been certified as M/WBEs by the PANYNJ may be eligible to receive expedited certification from DSBS after completing the Expedited Certification Affidavit, a copy of which is available from DSBS. Operator will provide NYCEDC with report(s) as often and with such details as may be reasonably required by NYCEDC of any M/WBE used in the provision of services for the Improvements. These requirements may change depending on the funding and associated requirements.

M/WBE PROGRAM REQUIREMENTS

1. M/WBE Program. Agreement Administrator has adopted an M/WBE program to further participation by MBEs and WBEs in projects administered by Agreement Administrator. Operator shall comply with all requirements of the M/WBE program set forth herein.
 - a. Participation Goal - Typical target participation goals range from 20-30% for design and construction projects. This range reflects the minimum to the optimal Participation Goal for the design and construction components of work related to the proposal (the "Work"). No credit shall be given for participation by a graduate M/WBE, as defined in Section 6-129(c)(20) of the Administrative Code of the City of New York.
 - b. The target Participation Goal range represents a percentage of the hard costs and soft costs associated with the Work (the "Eligible Costs") that will be paid to contractors, subcontractors and supplier firms certified with the City of New York through the Department of Small Business Services or with the State of New York through the Empire State Development Corporation as MBEs or WBEs. In the event of an Improvement, Operator shall identify their Participation Goal in their M/WBE Participation Proposal. A sample Participation Proposal is attached.
 - c. The credit toward the Participation Goal may be calculated as follows:
 - I. **Contractors:** The total dollar amount that Operator pays to contractors certified as MBEs or WBEs for Eligible Costs (less amounts paid to direct subcontractors or suppliers)
 - II. **Direct Subcontractors:** The total dollar amount that a contractor pays to subcontractors certified as MBEs or WBEs for Eligible Costs (less amounts paid to indirect subcontractors or suppliers).
 - III. **Indirect Subcontractors:** The total dollar amount that a subcontractor pays to its subcontractors certified as MBEs or WBEs for Eligible Costs.
 - IV. **Suppliers:** 60% of the dollar amount spent on materials or supplies for the design and construction components of the proposal purchased by Operator, contractors or direct subcontractors from certified suppliers.
 - V. **Joint Ventures:** A contractor, direct subcontractor or indirect subcontractor that is a qualified joint venture, as defined in Section 6-129(c)(24), shall be permitted to count a percentage of its own participation. The value of such participation shall be determined by subtracting from this total dollar amount any third party payments and then multiplying the remainder by the percentage to be applied to total profit to determine the amount to which an M/WBE partner is entitled pursuant to the joint venture agreement. Joint venture agreements must be made available for review and confirmation for expenses to be credited toward fulfillment of the Participation Goal.
 - d. The Operator shall provide NYCEDC with certified reports detailing its compliance with its M/WBE Participation Proposal, Participation Plan and Participation Goal.

Participation Goal Calculation Example (for illustrative purposes only):

Eligible Costs:	\$100 million		
Participation Goal:	25%	Actual Participation Amount:	27.4%
Dollar Value of Participation Goal:	\$25 million	Dollar Value of Participation Amount:	\$27.4 million
	Payment	Dollar Value of M/WBE Participation	Credit toward Participation Goal:
Design Phase: \$10 million is paid to an architecture firm as contractor for pre-construction work, firm is a joint venture with an M/WBE JV partner and profits are shared 50/50 pursuant to the JV Agreement	\$10 million	\$10 million (no amounts subcontracted out and no supplies needed) multiplied by the 50% JV Interest = \$5 million	5%
Construction Management/GC Level: \$90 million is paid to Contractor to serve as Construction Manager, CM is NOT an M/WBE Firm.	\$90 million	\$0	0%
Direct Subcontractor Level: CM pays \$80 million to multiple direct subcontractors. Two direct subcontractors are M/WBE firms and \$50 million of the \$80 million is paid to these two firms.	\$50 million	\$50 million minus amounts spent by these two M/WBE direct subcontractor firms on indirect subcontractors (\$30 million) and supplies (\$10 million, <i>see below</i>) = \$10 million	10%
Indirect Subcontractor Level: \$30 million is paid by Direct Subcontractors to multiple indirect subcontractors, \$10 million of the \$30 million is paid to Indirect Subcontractors that are M/WBE Firms	\$10 million	\$10 million	10%
Supplier Inclusion: \$10 million is spent by Direct Subcontractors on supplies. Of that, \$4 million is spent on supplies purchased from M/WBE suppliers.	\$4 million	60% of the \$4 million purchased from M/WBE suppliers = \$2.4 million	2.40%
		TOTAL:	27.4%

M/WBE COMPLIANCE REPORT FORM & SUBCONTRACTOR VERIFICATION FORM

Electronic copies of forms may be obtained by emailing opportunityMWDBE@nycedc.com

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Exhibit Q

City Capital Projects

To be updated as applicable.

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Exhibit R

Citywide Food and Beverage Standards

New York City
Food Standards

BEVERAGE VENDING MACHINES

- 1 Require all beverages contain 25 calories or less per 8 ounces with the following exception:**
 - A maximum of 2 slots/buttons may stock high calorie beverages (more than 25 calories per 8 ounces), such as regular soda, lemonade, sweetened tea and juice. The 2 slot limit applies no matter how many slots are in the machine.
 - Unsweetened 1% and non-fat milk not included in high calorie limit.
- 2 Require water be stocked in at least 2 slots/buttons per machine.**
 - Water should contain 0 calories with no added color, flavor or sweetener of any kind.
 - If drinking water is readily available in the vicinity of the vending machine, unflavored seltzer water may be substituted for the 2 slots of water.
- 3 Require water and seltzer be placed at eye level, or in the highest selling position. High calorie beverages should be placed farthest from eye level, or in the lowest selling position.**
- 4 Require all high calorie beverages are sold in 12 ounce containers or smaller.**
- 5 Prohibit advertisements of high calorie beverages on vending machines.**
 - Promotional material on the front and side panels of the machine can advertise water or beverages with 25 calories or less per 8 ounces.
- 6 Require calorie information is posted for each beverage, as packaged.**
 - Required for City agencies only.

Recommend stock machines with *only* water, seltzer and other low calorie beverages.

Make the healthier choice the cheaper choice. Set lower prices for water and other low calorie beverages than for high calorie beverages.

Follow these Standards to provide healthier beverage options.

Organizations, such as hospitals, worksites, and community-based organizations can adopt the Standards to improve the food environment for employees and visitors.

City agencies follow these standards per Executive Order 122.

Sugar-sweetened beverages are the single biggest contributor to the obesity epidemic.

For more information, please contact: nycfoodstandards@health.nyc.gov



BEVERAGE VENDING MACHINES



Example of a beverage vending machine that meets the standards.

Standards for programs serving children age 18 and under

- 1** Require all beverages contain **25 calories or less per 8 ounces**. For programs serving children age 12 and under, require that all beverages contain **10 calories or less per 8 ounces**.
Unsweetened 1% and nonfat milk not included.
- 2** Beverages cannot contain **artificial sweeteners, other natural non-nutritive or very low-calorie sweeteners (e.g. stevia, erythritol), artificial flavors or artificial colors**.
- 3** For programs serving children age 12 and under, **beverages cannot contain caffeine**.
- 4** Prohibit advertisements of **high calorie beverages on vending machines**.
Promotional material on the front and side panels of the machine can advertise water or beverages with 25 calories or less per 8 ounces.
- 5** Require **calorie information is posted for each beverage, as packaged**.
Required for City agencies only.

Standards for hot beverage machines (e.g. coffee machines)

- 1** Recommend all beverages contain **25 calories or less per 8 ounces**.
Condiments are not restricted (e.g. milk, sugar, sugar substitutes).
- 2** Recommend all beverages and condiments contain **0 grams trans fat**.
- 3** Recommend **calorie information is posted for each beverage, as packaged**.

Made possible by funding from the Department of Health and Human Services.

Snack Standards

1 Require snacks meet all of the following criteria, per package:

Calories: no more than 200 calories

Total fat: no more than 7 grams

- Nuts, seeds, nut butters and cheese are exempt
- Products containing nuts or nut butters are exempt

Saturated fat: no more than 2 grams

- Nuts, seeds, nut butters and cheese are exempt

Trans fat: 0 grams trans fat

Sodium: no more than 200 mg

- Cottage cheese: no more than 400 mg

Sugar: no more than 10 grams

- Fruit and vegetable products with no added sugar are exempt
- Yogurt: no more than 30 grams sugar per 8 ounces

Fiber: contain at least 2 grams of fiber, if product is grain/potato-based (e.g. granola bars, crackers, pretzels, cookies, chips)

2 Require calorie information is posted for each food item, as packaged.

Required for City agencies only.

3 For programs serving children age 18 and under: products cannot contain artificial flavors, artificial colors, artificial sweeteners, or other non-nutritive sweeteners (e.g. stevia, erythritol).

4 Recommend limit grain/potato-based snacks to no more than 50% of food items in machine.

Follow these Standards to provide healthier food options.

Organizations, such as hospitals, worksites, and community-based organizations can adopt the Standards to improve the food environment for employees and visitors.

City agencies follow these standards per Executive Order 122.

These Standards apply to all types of food vending machines including non-refrigerated "snack" and refrigerated machines.

Snacking in excess can lead to weight gain. Snacks, when consumed, should add healthy nutrients to the overall diet and help curb hunger.

For more information, please contact: nycfoodstandards@health.nyc.gov

FOOD VENDING MACHINES

Meal Standards

Meal items include salads, sandwiches, burritos, and combination packaged items such as tuna lunch kits. Breakfast breads and pastries must meet the snack standards.

1 Require each meal meet all of the following criteria:

Calories: no more than 700 calories (all items \leq 200 calories must follow snack standards)

Total fat: no more than 35% of calories

⋮ Salads: no more than 60% of calories

Saturated fat: no more than 10% of calories

⋮ Salads: no more than 20% of calories

Trans fat: 0 grams trans fat

Sodium: no more than 800 mg

⋮ Soup: no more than 480 mg per 8 ounces

Sugar: no more than 35% of calories

2 Refrigerated machines must stock fresh fruit and vegetable items.

3 Require calorie information is posted for each food item, as packaged.

Required for City agencies only.

4 For programs serving children age 18 and under: products cannot contain artificial flavors, artificial colors, artificial sweeteners, or other non-nutritive sweeteners (e.g. stevia, erythritol).

Exhibit S

Transition Plan

The below outlines a transition plan for the new Operator, Downtown Skyport, to assume control of the heliport operations at JRB. The transition period extends from the earliest date of award to several months subsequent to the Commencement Date. Thus, the scope of this plan references activities leading up to and following the new Operator assuming responsibility for JRB.

Personnel and Staffing

- Employee retention and reassignment: Clearly communicate the onboarding process to existing employees (i.e., employed by current Operator), assess the existing workforce, conduct an analysis of staffing needs, and create a roadmap for new hires and/or reassignments.
- Training and onboarding: Develop a comprehensive training program for new personnel and establish a timeline for completion. In parallel, develop an onboarding program for existing personnel.
- Human Resources (HR) compliance: Ensure compliance with all relevant labor laws (including Federal, state, and local) and contracts, including notification of employee transfers or termination, and update payroll, benefits, and employee contracts.

Finance

- Banking: Finalize banking solution for the Operator, including issuance and secure transfer of Security Deposit.
- Invoicing and payments: Baseline existing invoicing and payment system, identify system to be used in the future, and launch to ensure seamless payments and revenue collection.
- Insurance: Procure applicable insurance coverage as required.

Technology

- Asset register: Perform an audit of existing technology assets (computers, WiFi, IT systems, etc.), noting cataloguing any necessary modifications or required upgrades.
- Technology subscriptions: Identify the technology subscriptions and services that require a new contract / license (e.g., internet service, Microsoft 365), and prepare to enter into new contracts.

Commercial

- Contract review: Review all existing commercial agreements, including helicopter operations and non-aeronautical revenue, and ensure that all customers are notified of the transition well in advance of handover.
- Fee schedule review: Baseline existing pricing and terms with customers, assess opportunities for standardization and improvement.
- New agreements: Negotiate and finalize all new agreements, develop a timeline for the implementation of new pricing structures, communicate changes to all relevant parties.

Operations

- **Operational handover:** Develop a detailed operational handover schedule, including the management of flight schedules, helicopter coordination, and ground operations, implementing a plan for continuous operations during the transition to avoid service interruptions.
- **Supplier handover:** Conduct a full inventory audit of assets, equipment, and supplies currently managed by the outgoing operator, ensure the transition of key supplier relationships and agreements, including fuel supply, ground service equipment, and other aviation-related services.
- **Security handover:** Baseline existing security plan and personnel, identify gaps and changes required, and implement an updated system upon handover.

Safety & Compliance

- **Safety protocols review:** Conduct a thorough review of existing safety protocols, including emergency response plans, operational safety standards, and employee safety training, and identify any gaps that need to be addressed.
- **Safety updates:** Implement updates to meet Operator safety standards and ensure alignment with local and federal regulations.
- **Audits and inspections:** Schedule internal and external safety audits to identify any potential issues or gaps in compliance.

Regulations

- **Permit and license transfers:** Coordinate with Agreement Administrator and other relevant agencies to ensure that all relevant permits, operating licenses, aviation-related certifications, and other regulatory requirements are updated or modified (as applicable) to reflect change in operator.
- **Environmental and zoning compliance:** Review environmental impact assessments to ensure continued compliance with city, state, and federal environmental regulations.

Stakeholder and public engagement

- **Public communication strategy:** Develop a communication strategy to inform stakeholders, local community groups, and the general public about the transition and its benefits.
- **Key stakeholder management:** Meet with influential leaders in the community to address questions and gather feedback that will inform transition planning.

Exhibit T

Principals

Skyports, Inc.
ADP International Americas LLC

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Exhibit U

HireNYC

Exhibit U-1: HIRENYC CONSTRUCTION PROGRAM

The HireNYC Construction Program requires the Operator to enroll with the City's HireNYC portal found within DSBS's website, to report all new and replacement entry to mid-level job opportunities arising from construction activity related to the Project, that are located in the City, and to interview qualified candidates from the HireNYC Construction Program for those opportunities.

The HireNYC Construction Program applies to all contracts related to Construction Activities (as defined below) for goods, services, and construction with a value of \$1 million or more. With respect to this program, "Construction Activities" are any endeavors, actions and processes undertaken in furtherance of the Project (i) to improve, alter, build or demolish real estate at the Site; (ii) as a prerequisite to improve, alter, build, or demolish real estate at the Site; or (iii) to facilitate, monitor or supervise the improvement, alteration, building or demolition of real estate at the Site.

The requirements of the HireNYC Construction Program do not limit the Operator's ability to assess the qualifications of prospective workers or to make final hiring and retention decisions. The HireNYC Construction Program will apply to the Operator and its successors and assigns and will be incorporated into the lease. Consistent with these obligations, the Operator will also incorporate the requirements of the HireNYC Construction Program into all contracts related to Construction Activities for goods, services and construction with a value of \$1 million or more between the Operator and any contractor and will require its contractors to include the requirements in their subcontracts with a value of \$1million or more.

The Operator will participate in the HireNYC Construction Program from the time it enters into its initial contract for Construction Activities until the end of the Construction Activities. After or near the end of the Construction Activities, certain Operators will transition into the HireNYC program for permanent positions ("Permanent Program"), which is described in **Exhibit U-2**.

The HireNYC Program may be revised by EDC with such reasonable modifications as EDC may from time to time adopt. Notice of such modifications shall be given in such manner as EDC may elect.

I. HireNYC Construction Program Requirements

- a. Enrollment. The Operator must enroll in the program through the HireNYC portal (http://www.nyc.gov/html/sbs/wfl/html/contact/targeted_hiring.shtml) within 20 business days of full execution of the lease. The Operator will provide information about its project, designate a primary contact and state whether it intends to hire for any entry to mid-level job opportunities arising from Construction Activities related to the lease that are located in the City, and, if so, the approximate start date of the first hire. For the purposes of the HireNYC Construction Program “entry to mid-level job opportunities” are employment opportunities that require, as determined by the New York State Department of Labor, any of the following minimum levels of education: less than a high school diploma, a high school diploma or equivalent, post-secondary non-degree award, some college, no degree or an associate’s degree.
- b. Job Recruitment Requirements.
 - i. The Operator must update the HireNYC portal with:
 1. All new and replacement entry to mid-level job opportunities arising from Construction Activities related to the lease or any contract of sale agreement, as applicable, that are located in the City, if any,
 2. the requirements of the jobs to be filled,
 3. the number of positions,
 4. the anticipated schedule of initiating the hiring process for these positions, and
 5. the contact information for the Operator’s representative charged with overseeing hiring.
 - ii. The Operator must provide this information for such an entry or mid-level job opportunity no fewer than 30 business days prior to the intended first day of employment for the applicable entry or mid-level position (although the Operator is encouraged to provide that information as early as practicable). With respect to such an available entry or mid-level position, the period beginning on the date that the Operator provides that information and ending on the date 15 business days later will be known as the “Recruitment Period.” During the Recruitment Period for an entry or mid-level position, the Operator must exclusively consider candidates provided by DSBS; provided that, after the tenth business day of that

Recruitment Period, DSBS will not send any additional candidates for the applicable position to the Operator for exclusive consideration.

- iii. At the request of DSBS, the Operator will also be required to provide information on the Operator's construction schedule for project milestones, deadlines or delivery dates and expected new hiring required, which information may be used by DSBS to create a tailored recruitment plan.
 - iv. DSBS will screen applicants based on the Operator's employment requirements and refer applicants whom DSBS believes are qualified to the Operator for interviews. The Operator must interview referred applicants whom it believes are qualified for the available position.
 - v. After completing an interview of a candidate referred through the HireNYC Construction Program, the Operator must provide feedback through the portal within 20 business days to indicate whether the candidate was hired. If a candidate is not interviewed, the Operator must provide information on why such candidate was not qualified for consideration within 20 business days of the candidate's referral. In addition, the Operator must provide the start date of new hires, and additional information reasonably requested by DSBS about such hires, within 20 business days after the start date.
 - vi. This Section I(b) shall not apply to positions that the Operator intends to fill with employees employed pursuant to the job retention provision of Section 22-505 of the Administrative Code of the City of New York (the "Building Service Code"). The Operator shall not be required to report such openings through the HireNYC portal. However, the Operator shall enroll through the HireNYC portal pursuant to Section I(a), above, and, if additional positions that are not governed by the Building Service Code subsequently become open, the provisions of this Section I(b) will apply.
- c. Reporting Requirements. In the event the Operator does not have any job openings covered by the HireNYC Construction Program in any given year, the Operator must provide an annual update through the HireNYC portal to that effect. For this purpose, the reporting year will run from the date of the full execution of the lease or contract of sale agreement, as applicable, and each anniversary date, until the end of the Project's Construction Activities.

II. Construction Requirements.

- a. The Operator's construction contractors or consultants must comply with the HireNYC Construction Program requirements set forth above for all non-trades jobs (e.g., for an administrative position arising out of the work of the Construction Activities and located in the City) and for all nonunion trade jobs as set forth above.

- b. In addition, the Operator's construction contractors or consultants shall reasonably cooperate with DSBS and the NYCEDC on specific outreach events, including Hire on the Spot events, for the hiring of trades workers for the work of this project.

III. Breach and Liquidated Damages.

- a. If the Operator or its contractors or their subcontractors fail to comply with the terms of the HireNYC Construction Program (1) by not enrolling its business through the HireNYC portal; (2) by not informing DSBS through the HireNYC portal, as required, of open positions; or (3) by failing to interview a qualified candidate, NYCEDC may assess liquidated damages in the amount of \$2,500 per breach. For all other events of noncompliance with the terms of the HireNYC Construction Program, NYCEDC may assess liquidated damages in the amount of \$500 per breach.
- b. The failure of the Operator or its contractors or their subcontractors to interview a qualified candidate will be determined by NYCEDC in its sole discretion based on factors such as, and without limitation, the information provided through the HireNYC portal, the recruitment plan, if any, and an assessment of whether the Operator or its contractors or their subcontractors acted in good faith with respect to a referred candidate. If no reason is provided for failing to interview a referred candidate or if only insufficient information is provided within 20 business days of a candidate's referral, then such candidate will be deemed to be qualified. Regardless as to the number of candidates that a Operator may fail to interview for a particular job opening, no more than five candidates will be used to calculate the total amount of liquidated damages attributable to that job opening.

In the event the Operator or its contractors or their subcontractors breaches the requirements of the HireNYC Construction Program during the term of the lease, NYCEDC may hold the Operator in default.

Exhibit U-2: HIRENYC PERMANENT PROGRAM

Participation in the HireNYC Permanent program requires the Operator to use good faith efforts to achieve the hiring and workforce development goals and to comply with program requirements. Participation in NYCEDC's HireNYC Permanent Program applies to projects producing ten (10) or more permanent jobs over the life project.

NYCEDC recognizes the importance of creating employment opportunities for low-income persons, enabling them to participate in the City's economic growth. To this end, NYCEDC has developed the HireNYC Permanent Program for all land sales and leases expected to produce ten (10) or more permanent jobs over the life of the project. Participation in this program requires the successful Operator to use good faith efforts to achieve the hiring and workforce development goals and perform the requirements of NYCEDC's HireNYC Permanent Program.

Each Operator for projects expected to produce ten (10) or more permanent jobs over the life of the project must submit within its response a HireNYC Permanent Program plan ("Operator's HireNYC Permanent Program") addressing how Operator will seek to achieve the goals and other requirements set forth below and describing its experience, if any, conducting similar hiring and workforce development programs or undertaking other efforts to create employment opportunities for low-income persons. Please see the HireNYC Permanent Program Plan Template at the end of this Appendix for assistance in preparing Operator's HireNYC Permanent Program.

Operator's HireNYC Permanent Program must include all programmatic details listed below, including collaboration with a designated workforce development partner by NYCEDC in a notice to Operator ("Designated Partner"). The Designated Partner will assist Operator in implementing their HireNYC Permanent Program including the screening of candidates from the target population ("Target Population") defined as persons who have an income that is below two hundred percent (200%) of the poverty measure as determined by the Mayor's Office for Economic Opportunity.² A description of the income level meeting this threshold for each household size is available at: <https://www1.nyc.gov/site/opportunity/poverty-in-nyc/poverty-measure.page>

² A description of the income level meeting this threshold for each household size is available at https://www.nyc.gov/assets/opportunity/pdf/NYCGovPoverty2023_2020DATA_Digital_Final_d3.pdf

Operator's HireNYC Permanent Program will be in effect for a period of the earlier of (i) eight (8) years from the [Operations Commencement Date OR Commencement Date]³ or (ii) the termination of the Agreement ("HireNYC Program Term"). For any sub-operator, the HireNYC Program Term will be in effect for a period of the earlier of (i) eight (8) years from the commencement of business operations at the Facility or (ii) the expiration of the HireNYC Program Term for the Lessee.

The HireNYC Program may be revised by EDC with such reasonable modifications as EDC may from time to time adopt. Notice of such modifications shall be given in such manner as EDC may elect.

Operator's HireNYC Permanent Program will apply to Operator, its successors and assigns, and to all sub-operators (which term also includes sub-suboperators) at the project location during the HireNYC Permanent Program Term.

1. Goals. Operator's HireNYC Permanent Program must include, at a minimum, the following hiring and workforce development goals or, at each Operator's discretion, higher goals (collectively, the "Goals"):
 - Hiring Goal: Fifty percent (50%) of all new permanent jobs created in connection with the project (including jobs created by sub-operators, but excluding jobs relocated from other sites) will be filled by members of the Target Population referred by the Designated Partner for a period beginning, for each employer, at commencement of business operations and continuing through the end of the HireNYC Permanent Program Term. Notwithstanding the foregoing, the Hiring Goal shall only apply to hiring on occasions when Operator is hiring for five (5) or more permanent jobs.
 - Retention Goal: Forty percent (40%) of all employees whose hiring satisfied the Hiring Goal will be retained for at least nine (9) months from date of hire.
 - Advancement Goal: Thirty percent (30%) of all employees whose hiring satisfied the Hiring Goal will be promoted to a higher paid position within one (1) year of date of hire.

³ For projects that will not begin operations until construction completion, the "Operations Commencement Date" should be used, which is synonymous with the date the Lessee certifies project completion. For projects where operations begin at closing, "Commencement Date" should be used, which is synonymous with the date the project closes.

- Training Goal: Cooperation with NYCEDC and the Designated Partner to provide skills-training or higher education opportunities to members of the Target Population.
2. Program Requirements. Operator's HireNYC Permanent Program must also include all of the following requirements:
- Designation of a workforce development liaison by Operator to interact with NYCEDC and the Designated Partner during the course of Operator's HireNYC Permanent Program.
 - Commitment by Operator to do the following:
 - use good faith efforts to achieve the Goals.
 - notify NYCEDC six (6) weeks prior to the commencing of any business operations; including that of any sub-operators, sub-suboperators, or sublessees
 - with respect to initial hiring for any new permanent jobs associated with the latter of (a) the commencement of business operations at the Facility or (b) the Commencement Date.
- (i) provide NYCEDC and the Designated Partner with the approximate number and type of jobs that will become available, and for each job type a description of the basic job qualifications, at least three (3) months before commencing hiring; and
- (ii) consider only applicants referred by the Designated Partner for the first ten (10) business days, until the Hiring Goal is achieved or until all open positions are filled, whichever occurs first;
- with respect to ongoing hiring on occasions when hiring for five (5) or more permanent jobs:
- (i) provide NYCEDC and the Designated Partner with the approximate number and type of jobs that will become available, and for each job type a description of the basic job qualifications, at least one (1) month before commencing hiring or as soon as information is available, but in all cases not later than one (1) week before commencing hiring; and
- (ii) consider only applicants referred by the Designated Partner for the first five business days, until the Hiring Goal is achieved or until all open positions are filled, whichever occurs first.
- notify NYCEDC thirty (30) days prior to execution of any sub-operator or sub-suboperator license at the project location;

- provide NYCEDC with one (1) electronic copy of all sub-operator and sub-suboperator licenses at the project location within fifteen (15) days of execution;
- submit to NYCEDC an annual HireNYC Employment Report in the form provided by NYCEDC including providing information for any candidates referred by NYCEDC or the Designated Partner.
- cooperate with annual Site visits and, if requested by NYCEDC, employee satisfaction surveys relating to employee experience with Operator's HireNYC Permanent Program;
- provide information related to Operator's HireNYC Permanent Program and the hiring process to NYCEDC upon request; and
- allow information collected by NYCEDC and the Designated Partner to be included in public communications, including press releases and other media events.

3. General Requirements. The following general requirements also must be included in Operator's HireNYC Permanent Program:

- Operator's HireNYC Permanent Program must provide that it applies to Operator, its successors and assigns, and to all sub-operator and sub-suboperator at the project location during the HireNYC Permanent Program Term. Operator is required to incorporate the terms of its HireNYC Permanent Program into all sub-operator and sub-suboperator agreements obligating sub-operator and sub-suboperator to comply with the Goals and other requirements in Operator's HireNYC Permanent Program to the same extent as Operator is required to comply with such Goals and other requirements for the duration of the HireNYC Program Term.
- Enforcement. In the event NYCEDC determines that Operator, its sub-operators or sub-suboperators, have violated any of Operator's HireNYC Permanent Program requirements, including, without limitation, a determination that Operator, its sub-operator or sub-suboperator, have failed to use good faith efforts to fulfill the Goals, NYCEDC may (1) assess liquidated damages set forth immediately below; and/or (2) assert any other right or remedy it has under the project agreement to which Operator's HireNYC Permanent Program applies.
- Liquidated Damages. If Operator, its sub-operators or sub-suboperators, do any of the following:

(i) fail to comply with their obligations set forth in Section II(2) clauses (a)(with respect to the Hiring Goal), (c), and/or (d), and as a result the Designated Partner was unable to refer applicants or participate in the hiring process as required by the program ; or

(ii) fail to comply with their obligations set forth in Section II(2) clauses (f), (g), (h), (i), and/or (j) and such failure shall continue for a period of thirty (30) days after receipt of notice from NYCEDC, then, in the case of clause (i), NYCEDC may assess liquidated damages in the amount of \$2,500 for each position for which the Designated Partner was unable to refer applicants or otherwise participate in hiring as required by the program; and in the case of clause (ii), NYCEDC may assess damages for breach of each requirement in the amount of \$1,000. In view of the difficulty of accurately ascertaining the loss which NYCEDC will suffer by reason of Operator's failure to comply with program requirements, the foregoing amounts are hereby fixed and agreed as the liquidated damages that NYCEDC will suffer by reason of such failure, and not as a penalty. Operator shall be liable for and shall pay to NYCEDC all damages assessed against Operator, any sub-operator or sub-suboperator at the project upon receipt of demand from NYCEDC.

4. Project Agreement. The successful Operator's HireNYC Permanent Program will be incorporated into the project agreement to be entered into with the successful Operator.

HireNYC Permanent Program Plan Template

Permanent Program. All hiring and workforce development goals and Program requirements, as set forth below and further described on the previous pages of the HireNYC Permanent Program Appendix, must be set forth in full in each Operator's HireNYC Permanent Program.

Operator's HireNYC Permanent Program Plan

Project Name:

Operator Name:

Date:

1. Program Goals

- a. Set forth in full the hiring and workforce development goals for your operations or, at Operator's discretion, higher goals (collectively, the "Goals) as outlined in [Appendix J-2] (HireNYC Permanent Program) Section 1 Goals.
- b. Include the Hiring Goal, Retention Goal, Advancement Goal and Training Goal.

2. Program Requirements

- a. Set forth in full all HireNYC Permanent Program requirements as outlined in [Appendix J-2] (HireNYC Permanent Program) Section 2 Program Requirements.
- b. Set forth in full the requirements in [Appendix J-2] (HireNYC Permanent Program) Section 3 General Requirements

3. Program Implementation

- a. Discuss how you intend to work with sub-operators and sub-suboperators at the project location to implement your HireNYC Permanent Program.

- b. Discuss how your workforce development liaison will promote and track workforce development efforts, including the completion of HireNYC reporting forms.
- c. Discuss how you will facilitate targeted hiring such as a) arranging meetings at which NYCEDC and the Designated Partner staff can discuss the HireNYC Permanent Program and b) assist with information sharing, including results from hiring efforts and providing resources for hiring activities.
- d. Discuss how you will support connections to education and/or training either in partnership with NYCEDC and the Designated Partner or through relationships with other accredited training providers.
- e. Discuss any additional elements that you will include in your HireNYC Permanent Program.

4. Additional Information

- a. New Jobs and Skill Level
 - i. Number of projected permanent jobs at the project location (including projected jobs of sub-operators and sub-suboperators)
 - ii. Number and type of projected skilled/semi-skilled permanent jobs at the project location (including projected jobs of sub-operators and sub-suboperators).
 - iii. Number and type of projected unskilled permanent jobs at the project location (including projected jobs of sub-operators and sub-suboperators)
- b. Training and Certifications
 - i. Training required for skilled/semi-skilled permanent jobs
- c. Workforce Development Liaison
 - i. Contact name, number and e-mail address

Job Type Examples:

Skilled/Semi-skilled: Any job or labor that requires special training or education attainment (i.e., certifications, higher education degree) for its satisfactory performance. Examples include Commercial Vehicle Operators, Bookkeepers, Accountants, and Supervisors/Managers.

Unskilled: Any job or labor that requires relatively little or no training or experience for its satisfactory performance. Examples include Warehouse Clerks, Office Clerks, Laborers, Packers, Assemblers, Cashiers, and Customer Service Representatives.