
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington , D.C. 20549**

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended **March 31, 2013**

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number **000-49728**



JETBLUE AIRWAYS CORPORATION

(Exact name of registrant as specified in its charter)

Delaware

(State of Other Jurisdiction of Incorporation)

87-0617894

(I.R.S. Employer Identification No.)

27-01 Queens Plaza North, Long Island City, New York

(Address of principal executive offices)

11101

(Zip Code)

(718) 286-7900

(Registrant's telephone number, including area code)

N/A

(Former name, former address and former fiscal year,
if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

As of April 30, 2013, there were 282,130,143 shares outstanding of the registrant's common stock, par value \$.01.

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PART 1. FINANCIAL INFORMATION**ITEM 1. FINANCIAL STATEMENTS****JETBLUE AIRWAYS CORPORATION**
CONDENSED CONSOLIDATED BALANCE SHEETS
(in millions, except share data)

	March 31, 2013	December 31, 2012
	(unaudited)	
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$ 346	\$ 182
Investment securities	503	549
Receivables, less allowance	141	106
Prepaid expenses and other	296	263
Total current assets	1,286	1,100
PROPERTY AND EQUIPMENT		
Flight equipment	5,217	5,168
Predelivery deposits for flight equipment	345	338
	5,562	5,506
Less accumulated depreciation	1,040	995
	4,522	4,511
Other property and equipment	595	585
Less accumulated depreciation	229	221
	366	364
Assets constructed for others	561	561
Less accumulated depreciation	99	93
	462	468
Total property and equipment	5,350	5,343
OTHER ASSETS		
Investment securities	98	136
Restricted cash	51	51
Other	449	440
Total other assets	598	627
TOTAL ASSETS	\$ 7,234	\$ 7,070

See accompanying notes to condensed consolidated financial statements.

JETBLUE AIRWAYS CORPORATION
CONDENSED CONSOLIDATED BALANCE SHEETS
(in millions, except share data)

	March 31, 2013 (unaudited)	December 31, 2012
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES		
Accounts payable	\$ 181	\$ 153
Air traffic liability	833	693
Accrued salaries, wages and benefits	141	172
Other accrued liabilities	232	196
Current maturities of long-term debt and capital leases	575	394
Total current liabilities	1,962	1,608
LONG-TERM DEBT AND CAPITAL LEASE OBLIGATIONS	2,251	2,457
CONSTRUCTION OBLIGATION	511	514
DEFERRED TAXES AND OTHER LIABILITIES		
Deferred income taxes	489	481
Other	124	122
	613	603
STOCKHOLDERS' EQUITY		
Preferred stock, \$0.01 par value; 25,000,000 shares authorized, none issued	—	—
Common stock, \$0.01 par value; 900,000,000 shares authorized, 332,286,459 and 330,589,532 shares issued and 281,515,596 and 281,007,806 shares outstanding at March 31, 2013 and December 31, 2012, respectively	3	3
Treasury stock, at cost; 50,770,863 and 49,581,726 shares at March 31, 2013 and December 31, 2012, respectively	(42)	(35)
Additional paid-in capital	1,497	1,495
Retained earnings	447	433
Accumulated other comprehensive loss	(8)	(8)
Total stockholders' equity	1,897	1,888
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	\$ 7,234	\$ 7,070

See accompanying notes to condensed consolidated financial statements.

JETBLUE AIRWAYS CORPORATION
CONSOLIDATED STATEMENTS OF OPERATIONS
(unaudited, in millions, except per share amounts)

	Three Months Ended March 31,	
	2013	2012
OPERATING REVENUES		
Passenger	\$ 1,186	\$ 1,096
Other	113	107
Total operating revenues	1,299	1,203
OPERATING EXPENSES		
Aircraft fuel and related taxes	467	433
Salaries, wages and benefits	280	255
Landing fees and other rents	70	66
Depreciation and amortization	68	61
Aircraft rent	32	33
Sales and marketing	50	47
Maintenance materials and repairs	114	88
Other operating expenses	159	131
Total operating expenses	1,240	1,114
OPERATING INCOME	59	89
OTHER INCOME (EXPENSE)		
Interest expense	(41)	(45)
Capitalized interest	3	2
Interest income and other	2	3
Total other expense	(36)	(40)
INCOME BEFORE INCOME TAXES	23	49
Income tax expense	9	19
NET INCOME	\$ 14	\$ 30
EARNINGS PER COMMON SHARE:		
Basic	\$ 0.05	\$ 0.11
Diluted	\$ 0.05	\$ 0.09

See accompanying notes to condensed consolidated financial statements.

JETBLUE AIRWAYS CORPORATION
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(unaudited, in millions)

	Three Months Ended March 31,	
	2013	2012
NET INCOME	\$ 14	\$ 30
Changes in fair value of derivative instruments, net of reclassifications into earnings (net of \$0 and \$8 of taxes in 2013 and 2012, respectively)	—	12
Total other comprehensive income	—	12
COMPREHENSIVE INCOME	<u>\$ 14</u>	<u>\$ 42</u>

See accompanying notes to condensed consolidated financial statements.

JETBLUE AIRWAYS CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited, in millions)

	Three Months Ended March 31,	
	2013	2012
CASH FLOWS FROM OPERATING ACTIVITIES		
Net income	\$ 14	\$ 30
Adjustments to reconcile net income to net cash provided by operating activities:		
Deferred income taxes	9	17
Depreciation	61	55
Amortization	11	9
Stock-based compensation	3	3
Collateral (paid) returned for derivative instruments	3	(1)
Changes in certain operating assets and liabilities	106	181
Other, net	(2)	(2)
Net cash provided by operating activities	205	292
CASH FLOWS FROM INVESTING ACTIVITIES		
Capital expenditures	(74)	(169)
Predelivery deposits for flight equipment	(9)	(15)
Purchase of available-for-sale securities	(119)	(85)
Sale of available-for-sale securities	154	110
Purchase of held-to-maturity investments	(69)	(152)
Proceeds from the maturities of held-to-maturity investments	116	142
Other, net	(1)	(2)
Net cash used in investing activities	(2)	(171)
CASH FLOWS FROM FINANCING ACTIVITIES		
Proceeds from:		
Issuance of common stock	—	2
Issuance of long-term debt	24	—
Short-term borrowings and lines of credit	190	—
Repayment of long-term debt and capital lease obligations	(52)	(47)
Repayment of short-term borrowings and lines of credit	(190)	(88)
Other, net	(11)	(9)
Net cash used in financing activities	(39)	(142)
INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS		
Cash and cash equivalents at beginning of period	182	673
Cash and cash equivalents at end of period	\$ 346	\$ 652

See accompanying notes to condensed consolidated financial statements.

JETBLUE AIRWAYS CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(unaudited)

March 31, 2013

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

Our condensed consolidated financial statements include the accounts of JetBlue Airways Corporation, or JetBlue, and our subsidiaries, collectively “we” or the “Company”, with all intercompany transactions and balances having been eliminated. These condensed consolidated financial statements and related notes should be read in conjunction with our 2012 audited financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2012, or our 2012 Form 10-K.

These condensed consolidated financial statements are unaudited and have been prepared by us following the rules and regulations of the Securities and Exchange Commission, or the SEC, and, in our opinion, reflect all adjustments including normal recurring items which are necessary to present fairly the results for interim periods. Our revenues are recorded net of excise and other related taxes in our condensed consolidated statements of operations.

Certain information and footnote disclosures normally included in financial statements prepared in accordance with U.S. generally accepted accounting principles have been condensed or omitted as permitted by such rules and regulations; however, we believe that the disclosures are adequate to make the information presented not misleading. During the three months ended March 31, 2013, we recorded \$3 million of maintenance expense that should have been recorded in 2012. Operating results for the periods presented herein are not necessarily indicative of the results that may be expected for the entire year.

Investment securities

Investment securities consist of available-for-sale investment securities and held-to-maturity investment securities. When sold, we use a specific identification method to determine the cost of the securities.

Held-to-maturity investment securities. The contractual maturities of the corporate bonds we held as of March 31, 2013 were no greater than 24 months. We did not record any significant gains or losses on these securities during the three months ended March 31, 2013 or 2012. The estimated fair value of these investments approximated their carrying value as of March 31, 2013 and December 31, 2012.

The carrying values of investment securities consisted of the following at March 31, 2013 and December 31, 2012 (in millions):

	March 31, 2013	December 31, 2012
Available-for-sale securities		
Time deposits	\$ 70	\$ 65
Treasury Bills	68	68
Commercial paper	102	142
	<u>240</u>	<u>275</u>
Held-to-maturity securities		
Corporate bonds	264	313
Government bonds	40	40
Time Deposits	57	57
	<u>361</u>	<u>410</u>
Total	<u>\$ 601</u>	<u>\$ 685</u>

New Accounting Pronouncements

In December 2011, the FASB issued ASU 2011-11, amending the *Balance Sheet* topic of the Codification. This update enhances the disclosure requirements regarding offsetting assets and liabilities. ASU 2011-11 requires entities to disclose both gross information and net information about both instruments and transactions eligible for offset in the statement of financial position and instruments and transactions subject to an agreement similar to a master netting arrangement. These amendments are effective for annual and interim reporting periods beginning on or after January 1, 2013. Adoption of this standard did not have a material impact on our condensed consolidated financial statements or notes thereto.

In February 2013, the FASB issued ASU 2013-02, amending the *Comprehensive Income* topic of the Codification. This update amends the requirement to present either on the face of the statement of operations or in the notes, the effects of significant net income line items reclassified out of accumulated other comprehensive income or loss, but only if the amount reclassified is required under U.S. GAAP to be reclassified to net income in its entirety in the same reporting period. For amounts that are not required to be reclassified in their entirety to net income, the Company is required to cross-reference to other disclosures that provide additional detail about those amounts. ASU 2013-02 became effective for the our annual and interim periods beginning January 1, 2013. The required disclosures are included in Note 4.

NOTE 2 — SHARE-BASED COMPENSATION

During the three months ended March 31, 2013, 1.7 million restricted stock units vested under the 2011 Incentive Compensation Plan and the Amended and Restated 2002 Stock Incentive Plan.

NOTE 3 — LONG TERM DEBT, SHORT TERM BORROWINGS, AND CAPITAL LEASE OBLIGATIONS

Short Term Borrowings

CitiBank Line of Credit. On April 23, 2013, we entered into a Credit and Guaranty Agreement that consists of a \$350 million revolving credit and letter of credit facility with Citibank, N.A. as the administrative agent which terminates in 2016. Borrowings under the Credit Facility bear interest at a variable rate equal to LIBOR, plus a margin. The Credit Facility is secured by take-off and landing slots at John F. Kennedy International Airport, or JFK, Newark Liberty International Airport, LaGuardia Airport and Ronald Reagan Washington National Airport and certain other assets.

The Credit Facility includes covenants that require us to maintain certain minimum balances in unrestricted cash, cash equivalents, and unused commitments available under all revolving credit facilities. In addition the covenants restrict our ability to incur additional indebtedness, issue preferred stock or pay dividends. Concurrently, we terminated the unsecured revolving credit facility with American Express as of April 24, 2013. As of March 31, 2013, we did not have an outstanding balance under any of our credit facilities.

Other Indebtedness

During the three months ended March 31, 2013, we issued \$24 million, net of discount, in floating rate equipment notes due through 2025, which are secured by one aircraft.

EETC notes. We are subject to certain collateral ratio requirements in our spare parts pass-through certificates and spare engine financing issued in November 2006 and December 2007, respectively. As a result of lower spare parts inventory balances and the associated reduced third party valuation of these parts, we were not in compliance with these covenants as of March 31, 2013. As a result, subsequent to the first quarter, we pledged as collateral a previously unencumbered spare engine with a carrying value of approximately \$7 million, and redeemed \$2 million of the enhanced equipment notes.

Aircraft, engines and other equipment and facilities having a net book value of \$3.61 billion at March 31, 2013 have been pledged as security under various loan agreements. As of March 31, 2013, we owned 11 unencumbered Airbus A320 aircraft and nine spare engines.

Our outstanding long-term debt and capital lease obligations were reduced by \$52 million as a result of principal payments made during the three months ended March 31, 2013.

At March 31, 2013, the weighted average interest rate of all of our long-term debt was 4.5% and scheduled maturities were \$345 million for the remainder of 2013, \$574 million in 2014, \$260 million in 2015, \$457 million in 2016, \$184 million in 2017 and \$1.01 billion thereafter.

The carrying amounts and estimated fair values of our long-term debt at March 31, 2013 and December 31, 2012 were as follows (in millions):

	March 31, 2013		December 31, 2012	
	Carrying Value	Estimated Fair Value	Carrying Value	Estimated Fair Value
Public Debt				
Floating rate enhanced equipment notes				
Class G-1, due through 2016	\$ 160	\$ 156	\$ 173	\$ 164
Class G-2, due 2014 and 2016	373	352	373	351
Class B-1, due 2014	49	47	49	48
Fixed rate special facility bonds, due through 2036	82	82	82	82
6.75% convertible debentures due in 2039	162	256	162	225
5.5% convertible debentures due in 2038	123	200	123	173
Non-Public Debt				
Floating rate equipment notes, due through 2025	823	825	816	776
Fixed rate equipment notes, due through 2026	942	1,069	960	1,050
Total	\$ 2,714	\$ 2,987	\$ 2,738	\$ 2,869

The estimated fair values of our publicly held long-term debt are classified as Level 2 in the fair value hierarchy. The fair values of our enhanced equipment notes and our special facility bonds were based on quoted market prices in markets that are traded with low volumes. The fair value of our convertible debentures was based upon other observable market inputs since they are not actively traded. The fair value of our non-public debt was estimated using a discounted cash flow analysis based on our borrowing rates for instruments with similar terms and therefore classified as Level 3 in the fair value hierarchy.

We utilize a policy provider to provide credit support on the Class G-1 and Class G-2 certificates. The policy provider has unconditionally guaranteed the payment of interest on the certificates when due and the payment of principal on the certificates no later than 18 months after the final expected regular distribution date. The policy provider is MBIA Insurance Corporation (a subsidiary of MBIA, Inc.).

NOTE 4 — ACCUMULATED OTHER COMPREHENSIVE LOSS

Comprehensive income includes changes in fair value of our aircraft fuel derivatives and interest rate swap agreements, which qualify for hedge accounting. A rollforward of the amounts included in accumulated other comprehensive loss, net of taxes, for the three months ended March 31, 2013 is as follows (in millions):

	Aircraft Fuel Derivatives (1)	Interest Rate Swaps (2)	Total
Beginning accumulated losses, at December 31, 2012	\$ (1)	\$ (7)	\$ (8)
Reclassifications into earnings (net of \$1 of taxes)	—	2	2
Change in fair value (net of \$1 of taxes)	(2)	—	(2)
Ending accumulated losses, at March 31, 2013	\$ (3)	\$ (5)	\$ (8)

(1) Reclassified to aircraft fuel expense

(2) Reclassified to interest expense

NOTE 5 — EARNINGS PER SHARE

The following table shows how we computed basic and diluted earnings per common share (dollars in millions; share data in thousands):

	Three Months Ended March 31,	
	2013	2012
Numerator		
Net income	\$ 14	\$ 30
Effect of dilutive securities:		
Interest on convertible debt, net of income taxes and profit sharing	1	2
Net income applicable to common stockholders after assumed conversions for diluted earnings per share	<u>\$ 15</u>	<u>\$ 32</u>
Denominator		
Weighted average shares outstanding for basic earnings per share	279,768	281,206
Effect of dilutive securities:		
Employee stock options	1,662	1,044
Convertible debt	27,428	60,575
Adjusted weighted average shares outstanding and assumed conversions for diluted earnings per share	<u>308,858</u>	<u>342,825</u>
Shares excluded from EPS calculation (in millions)		
Shares issuable upon conversion of our convertible debt as assumed conversion would be antidilutive	33.1	—
Shares issuable upon exercise of outstanding stock options or vesting of restricted stock units as assumed exercise would be antidilutive	17.5	23.6

As of March 31, 2013, a total of approximately 1.4 million shares of our common stock, which were lent to our share borrower pursuant to the terms of our share lending agreement, as described more fully in Note 2 to our 2012 Form 10-K, were issued and outstanding for corporate law purposes. Holders of the borrowed shares have all the rights of a holder of our common stock. However, because the share borrower must return all borrowed shares to us (or identical shares or, in certain circumstances of default by the counterparty, the cash value thereof), the borrowed shares are not considered outstanding for the purpose of computing and reporting basic or diluted earnings per share. The fair value of similar common shares not subject to our share lending arrangement, based upon our closing stock price at March 31, 2013, was approximately \$10 million.

NOTE 6 — EMPLOYEE RETIREMENT PLAN

We sponsor a retirement savings 401(k) defined contribution plan, or the Plan, covering all of our employees. In addition to matching non-management employee contributions of up to 5% of eligible wages, the Plan also includes a discretionary contribution of 5% of eligible non-management wages called *Retirement Plus*. Our non-management employees are also eligible to receive profit sharing, calculated as 15% of adjusted pre-tax income reduced by the *Retirement Plus* contributions. Certain of our FAA-licensed employees receive an additional contribution of 3% of eligible compensation, which we refer to as *Retirement Advantage*. Total 401(k) company match, *Retirement Plus*, profit sharing, and *Retirement Advantage* expensed for the three months ended March 31, 2013 and 2012 was \$20 million and \$17 million, respectively.

NOTE 7 — COMMITMENTS AND CONTINGENCIES

As of March 31, 2013, our firm aircraft orders consisted of 14 Airbus A320 aircraft, 30 Airbus A321 aircraft, 40 Airbus A320 new engine option, or A320neo aircraft, 30 EMBRAER 190 aircraft and 10 spare engines scheduled for delivery through 2021. Committed expenditures for these aircraft, including the related flight equipment and estimated amounts for contractual price escalations and predelivery deposits, were approximately \$320 million for the remainder of 2013, \$525 million in 2014, \$745 million in 2015, \$765 million in 2016, \$575 million in 2017 and \$2.04 billion thereafter.

In July 2012, we extended the date for which we may elect not to further amend our EMBRAER purchase agreement for the order of a new EMBRAER 190 variant to July 31, 2013. If the new variant is not elected, seven EMBRAER 190 aircraft we previously deferred during 2011, may either be returned to their previously committed to delivery dates in 2013 and 2014 or canceled and subject to cancellation fees.

In March 2013, we extended the lease terms for our Terminal at JFK. The lease extension incorporates a long term lease for the approximately 19 acres of former Terminal 6, property and provides for the construction of a new international arrivals facility to be adjoined to our existing Terminal 5, facility, the T5i Project. The term of this lease extension extends through 2042, with an option to terminate early in 2033. JetBlue will self-fund the estimated \$175 million construction cost of this facility, which is expected to be completed in early 2015. Through March 31, 2013, total costs incurred for the T5i project were \$25 million .

As of March 31, 2013 , we had approximately \$31 million in assets that serve as collateral for letters of credit related to certain of our leases, which are included in restricted cash, and expire at the end of the related lease terms. Additionally, we had \$16 million pledged related to our workers compensation insurance policies and other business partner agreements, which will expire according to the terms of the related policies or agreements.

Environmental Liability

In 2012, during performance of environmental testing required in connection with the demolition of the existing passenger terminal buildings and closure of the defunct hydrant fuel systems on the Terminal 6 site at JFK, the presence of light non-aqueous phase petroleum liquid was discovered in certain subsurface monitoring wells on the property. Our lease with the Port Authority of New York and New Jersey, or PANYNJ, provides that, under certain circumstances, we may be responsible for investigating, delineating, and remediating such subsurface contamination, even if we are not necessarily the party that caused its release. We have engaged environmental consultants and legal counsel to assess the extent of the contamination and assist us in determining whether we are responsible for taking steps to remediate it. A preliminary estimate indicates costs of remediation could range from less than \$1 million up to approximately \$3 million . As of March 31, 2013 , we have accrued \$2 million for current estimates of remediation costs. However, as with any environmental contamination, there is the possibility this contamination could be more extensive than estimated at this early stage.

Based upon information currently known to us, we do not expect these environmental proceedings to have a material adverse effect on our consolidated financial position, results of operations, or cash flows. However, it is not possible to predict with certainty the impact on us of future environmental compliance requirements or the costs of resolving the matter, in part because the scope of the remediation that may be required is not certain and environmental laws and regulations are subject to modification and changes in interpretation.

Legal Matters

Occasionally, we are involved in various claims, lawsuits, regulatory examinations, investigations and other legal matters arising, for the most part, in the ordinary course of business. The outcome of litigation and other legal matters is always uncertain. The Company believes that it has valid defenses to the legal matters currently pending against it, is defending itself vigorously and has recorded accruals determined in accordance with GAAP, where appropriate. In making a determination regarding accruals, using available information, we evaluate the likelihood of an unfavorable outcome in legal or regulatory proceedings to which we are a party to and record a loss contingency when it is probable that a liability has been incurred and the amount of the loss can be reasonably estimated. These judgments are subjective, based on the status of such legal or regulatory proceedings, the merits of our defenses and consultation with legal counsel. Actual outcomes of these legal and regulatory proceedings may materially differ from our current estimates. It is possible that resolution of one or more of the legal matters currently pending or threatened could result in losses material to our consolidated results of operations, liquidity or financial condition.

To date, none of these types of litigation matters, most of which are typically covered by insurance, has had a material impact on our operations or financial condition. We have insured and continue to insure against most of these types of claims. A judgment on any claim not covered by, or in excess of, our insurance coverage could materially adversely affect our financial condition or results of operations.

DOT tarmac delay. As described more fully in our 2012 Form 10-K, the Department of Transportation, or DOT, is currently investigating our diversion of five flights to Hartford, CT's Bradley International Airport, or Bradley, in October 2011 due to winter weather and the failure of major navigational equipment at New York City, or NYC, area airports. Once on the ground, these five aircraft were each held on the tarmac in excess of three hours with customers and crew on board, a time limit which is beyond the limits proscribed by the DOT's Tarmac Delay Rule. As a result, the FAA has the statutory authority in this matter to assess monetary penalties against JetBlue of approximately \$15 million . Due to the circumstances surrounding the October 2011 day in question, including the unexpected weather conditions, the condition of NYC area airports as well as of Bradley, and the overall air traffic conditions on that day, as well as the discretion granted to the DOT by the regulation, we are unable to determine whether a fine will be assessed, and if so, the amount of such fine. We have issued compensation to the impacted customers in accordance with our Customer Bill of Rights, and are fully complying with all requests made by the DOT in the course of the investigation. We do not know when a final determination by the DOT will be made.

Employment Agreement Dispute. In or around March 2010, attorneys representing a group of current and former pilots, or the Claimants', filed a Request for Mediation with the American Arbitration Association concerning a dispute over the interpretation of a provision of their individual JetBlue Airways Corporation Employment Agreement for Pilots, or Employment Agreement. In their Fourth Amended Arbitration Demand, dated June 8, 2012, Claimants (approximately 944 current pilots and 26 former pilots) alleged that JetBlue breached the Base Salary provision of the Employment Agreement and sought back pay and related damages, for each of 2002, 2007 and 2009. In July 2012, in response to JetBlue's partial Motion to Dismiss, the Claimants withdrew the 2002 claims. The Claimants have not specified an exact amount of damages sought. As such, we are unable to determine a range of potential loss at this time. However, pilot salaries currently represent approximately 40% of our total consolidated salaries and wages; therefore, any judgment in the Claimants' favor could have a material adverse impact on our results of operations, liquidity and/or financial condition.

Discovery was completed and expert reports were filed during the fourth quarter of 2012. An arbitration hearing was held in March 2013 and post-hearing briefs were filed in May 2013 with a decision expected in the near term. The Company continues to vigorously defend its interpretation of the Employment Agreements at issue. While the outcome of any arbitration is uncertain, the Company believes the claims are without merit.

NOTE 8 —FINANCIAL DERIVATIVE INSTRUMENTS AND RISK MANAGEMENT

As part of our risk management techniques, we periodically purchase over the counter energy derivative instruments and enter into fixed forward price agreements, or FFPs, to manage our exposure to the effect of changes in the price of aircraft fuel. Prices for the underlying commodities have historically been highly correlated to aircraft fuel, making derivatives of them effective at providing short-term protection against sharp increases in average fuel prices. We also periodically enter into jet fuel basis swaps for the differential between heating oil and jet fuel, to further limit the variability in fuel prices at various locations.

To manage the variability of the cash flows associated with our variable rate debt, we have also entered into interest rate swaps. We do not hold or issue any derivative financial instruments for trading purposes.

Aircraft fuel derivatives : We attempt to obtain cash flow hedge accounting treatment for each aircraft fuel derivative that we enter into. This treatment is provided for under the *Derivatives and Hedging* topic of the Codification which allows for gains and losses on the effective portion of qualifying hedges to be deferred until the underlying planned jet fuel consumption occurs, rather than recognizing the gains and losses on these instruments into earnings during each period they are outstanding. The effective portion of realized aircraft fuel hedging derivative gains and losses is recognized in aircraft fuel expense in the period the underlying fuel is consumed.

Ineffectiveness results, in certain circumstances, when the change in the total fair value of the derivative instrument differs from the change in the value of our expected future cash outlays for the purchase of aircraft fuel and is recognized immediately in interest income and other. Likewise, if a hedge does not qualify for hedge accounting, the periodic changes in its fair value are recognized in the period of the change in interest income and other. When aircraft fuel is consumed and the related derivative contract settles, any gain or loss previously recorded in other comprehensive income is recognized in aircraft fuel expense. All cash flows related to our fuel hedging derivatives are classified as operating cash flows.

Our current approach to fuel hedging is to enter into hedges on a discretionary basis without a specific target of hedge percentage needs. We view our hedge portfolio as a form of insurance to help mitigate the impact of price volatility and protect us against severe spikes in oil prices, when possible.

The following table illustrates the approximate hedged percentages of our projected fuel usage by quarter as of March 31, 2013 related to our outstanding fuel hedging contracts that were designated as cash flow hedges for accounting purposes.

	Jet fuel swap agreements	Jet fuel cap agreements	Brent crude oil collars	Total
Second Quarter 2013	5%	5%	8%	18%
Third Quarter 2013	15%	8%	3%	26%
Fourth Quarter 2013	16%	8%	—	24%

In April 2013, we entered into jet fuel swap transactions representing an additional 3% of our forecasted consumption in each of the third and fourth quarter of 2013, and representing 7% of first quarter 2014 forecasted fuel consumption.

During 2013, we also entered into additional basis swap transactions to be settled later in 2013, which we did not designate as cash flow hedges for accounting and as a result we marked to market in earnings each period outstanding based on their current fair value. As of March 31, 2013, the fair value recorded for these contracts was a net liability of approximately \$1

million. Additionally, we enter into FFPs which allow us to lock in the price of fuel for specified quantities and at specified locations in future periods. Of our remaining projected 2013 fuel requirements, 11% were managed with FFPs at March 31, 2013. In April 2013, we entered into additional FFP agreements covering 2% of our 2014 projected fuel consumption.

As of March 31, 2013, we determined certain of our derivatives no longer qualified for hedge accounting. As such, we prospectively discontinued the application of hedge accounting on a portion of our outstanding Brent crude oil agreements. Any incremental increase or decrease in the value of these contracts will be recognized in interest income and other in each period during 2013 until the contracts settle.

Interest rate swaps: The interest rate hedges we had outstanding as of March 31, 2013 effectively swap floating rate for fixed rate, taking advantage of lower borrowing rates in existence at the time of the hedge transaction as compared to the date our original debt instruments were executed. As of March 31, 2013, we had \$346 million in notional debt outstanding related to these swaps, which cover certain interest payments through August 2016. The notional amount decreases over time to match scheduled repayments of the related debt.

All of our outstanding interest rate swap contracts qualify as cash flow hedges in accordance with the *Derivatives and Hedging* topic of the Codification. Since all of the critical terms of our swap agreements match the debt to which they pertain, there was no ineffectiveness relating to these interest rate swaps in 2013 or 2012, and all related unrealized losses were deferred in accumulated other comprehensive loss. We recognized approximately \$3 million and \$2 million in additional interest expense as the related interest payments were made in each of the three months ended March 31, 2013 and 2012, respectively.

The table below reflects quantitative information related to our derivative instruments and where these amounts are recorded in our financial statements (dollar amounts in millions):

	As of	
	March 31, 2013	December 31, 2012
Fuel derivatives		
Asset fair value recorded in prepaid expenses and other (1)	\$ 2	\$ —
Liability fair value recorded in other accrued liabilities (1)	3	1
Longest remaining term (months)	9	9
Hedged volume (barrels, in thousands)	2,522	675
Estimated amount of existing losses expected to be reclassified into earnings in the next 12 months	(5)	(1)
Interest rate derivatives		
Liability fair value recorded in other long term liabilities (2)	9	12
Estimated amount of existing losses expected to be reclassified into earnings in the next 12 months	(7)	(9)
	Three Months Ended March 31,	
	2013	2012
Fuel derivatives		
Hedge effectiveness gains recognized in aircraft fuel expense	\$ —	\$ 9
Gains on derivatives not qualifying for hedge accounting recognized in other income (expense)	—	1
Hedge gains (losses) on derivatives recognized in comprehensive income	(3)	29
Percentage of actual consumption economically hedged	19%	26%
Interest rate derivatives		
Hedge losses on derivatives recognized in comprehensive income	—	(1)
Hedge losses on derivatives recognized in interest expense	(3)	(2)

(1) Gross asset or liability of each contract prior to consideration of offsetting positions with each counterparty.

(2) Gross liability, prior to impact of collateral posted.

Any outstanding derivative instrument exposes us to credit loss in connection with our fuel contracts in the event of nonperformance by the counterparties to the agreements, but we do not expect that any of our five counterparties will fail to meet their obligations. The amount of such credit exposure is generally the fair value of our outstanding contracts for which we are in a receivable position. To manage credit risks, we select counterparties based on credit assessments, limit our overall exposure to any single counterparty and monitor the market position with each counterparty. Some of our agreements require cash deposits from either counterparty if market risk exposure exceeds a specified threshold amount.

We have master netting arrangements with our counterparties allowing us the right of offset to mitigate credit risk in derivative transactions. The financial derivative instrument agreements we have with our counterparties may require us to fund all, or a portion of, outstanding loss positions related to these contracts prior to their scheduled maturities. The amount of collateral posted, if any, is periodically adjusted based on the fair value of the hedge contracts. Our policy is to offset the liabilities represented by these contracts with any cash collateral paid to the counterparties. The impact of offsetting derivative instruments is depicted below (dollar amounts in millions):

	Gross Amount of Recognized		Gross Amount of Cash Collateral Offset	Net Amount Presented in Balance Sheet	
	Assets	Liabilities		Assets	Liabilities
As of March 31, 2013					
Fuel derivatives	\$ 2	\$ 3	—	—	\$ 1
Interest rate derivatives	—	9	9	—	—
As of December 31, 2012					
Fuel derivatives	—	1	—	—	1
Interest rate derivatives	—	12	12	—	—

NOTE 9 —FAIR VALUE OF FINANCIAL INSTRUMENTS

Under the *Fair Value Measurements and Disclosures* topic of the Codification, disclosures are required about how fair value is determined for assets and liabilities and a hierarchy for which these assets and liabilities must be grouped is established, based on significant levels of inputs as follows:

Level 1 quoted prices in active markets for identical assets or liabilities;

Level 2 quoted prices in active markets for similar assets and liabilities and inputs that are observable for the asset or liability; or

Level 3 unobservable inputs for the asset or liability, such as discounted cash flow models or valuations.

The determination of where assets and liabilities fall within this hierarchy is based upon the lowest level of input that is significant to the fair value measurement. The following is a listing of our assets and liabilities required to be measured at fair value on a recurring basis and where they are classified within the fair value hierarchy as of March 31, 2013 and December 31, 2012 (in millions).

	As of March 31, 2013			
	Level 1	Level 2	Level 3	Total
Assets				
Cash and cash equivalents	\$ 209	\$ —	\$ —	\$ 209
Restricted cash	4	—	—	4
Available-for-sale investment securities	68	172	—	240
Aircraft fuel derivatives	\$ —	\$ 2	\$ —	2
	<u>\$ 281</u>	<u>\$ 174</u>	<u>\$ —</u>	<u>\$ 455</u>
Liabilities				
Aircraft fuel derivatives	\$ —	\$ 3	\$ —	\$ 3
Interest rate swap	—	9	—	9
	<u>\$ —</u>	<u>\$ 12</u>	<u>\$ —</u>	<u>\$ 12</u>

	As of December 31, 2012			
	Level 1	Level 2	Level 3	Total
Assets				
Cash and cash equivalents	\$ 84	\$ —	\$ —	\$ 84
Restricted cash	4	—	—	4
Available-for-sale investment securities	68	207	—	275
	<u>\$ 156</u>	<u>\$ 207</u>	<u>\$ —</u>	<u>\$ 363</u>
Liabilities				
Aircraft fuel derivatives	\$ —	\$ 1	\$ —	\$ 1
Interest rate swap	—	12	—	12
	<u>\$ —</u>	<u>\$ 13</u>	<u>\$ —</u>	<u>\$ 13</u>

Refer to Note 3 for fair value information related to our outstanding debt obligations as of March 31, 2013 and December 31, 2012 .

Cash and cash equivalents: Our cash and cash equivalents include money market securities and commercial paper which are readily convertible into cash with maturities of 90 days or less when purchased, all of which are considered to be highly liquid and easily tradable. These securities are valued using inputs observable in active markets for identical securities and are therefore classified as Level 1 within our fair value hierarchy.

Available-for-sale investment securities: Included in our available-for-sale investment securities are certificates of deposit and commercial paper with original maturities greater than 90 days but less than one year. The fair values of these instruments are based on observable inputs in non-active markets; which are therefore classified as Level 2 in the hierarchy. At March 31, 2013, we also held treasury bills with maturities greater than 90 days when purchased. The fair value of treasury bills are based on actively traded quoted market prices and are therefore classified as Level 1 in the hierarchy. We did not record any significant gains or losses on these securities during the three months ended March 31, 2013 .

Aircraft fuel derivatives: Our aircraft fuel derivatives include jet fuel swaps, crude oil collars, and jet fuel caps which are not traded on public exchanges. Their fair values are determined using a market approach based on inputs that are readily available from public markets for commodities and energy trading activities; therefore, they are classified as Level 2 inputs. The data inputs are combined into quantitative models and processes to generate forward curves and volatilities related to the specific terms of the underlying hedge contracts.

Interest rate swaps: The fair values of our interest rate swaps are based on inputs received from the related counterparty, which are based on observable inputs for active swap indications in quoted markets for similar terms. The fair values of these instruments are based on observable inputs in non-active markets which are therefore classified as Level 2 in the hierarchy.

NOTE 10 — LIVETV

LiveTV Commercial Agreements. LiveTV, our wholly owned subsidiary, provides inflight entertainment solutions for various commercial airlines. These solutions include equipment and related installation as well as agreements for ongoing service and support, which extend through 2021. We account for the equipment agreements as operating leases, with related revenue recognized ratably over the term of the related customer agreement. This determination is principally as a result of the long term nature of these agreements and the resulting uncertainties surrounding the total costs to provide ongoing equipment maintenance and upkeep throughout the contractual term. We account for payments for ongoing service and support ratably over the term of the related customer contract.

In 2011, one of LiveTV's customers terminated its contract, paying termination fees of approximately \$16 million . The provisions of the termination required that the LiveTV system be deactivated on all of the customer's aircraft, an activity which both commenced and concluded within the first calendar quarter of 2012. Upon completing these deactivations, we recorded a gain of \$8 million , which is reflected in other operating expenses. This gain represents the difference between the \$16 million in termination proceeds received and the total net assets associated with this customer as well as deactivation costs incurred.

In April 2013, LiveTV received final approval from the Federal Communication Commission and sold the air-to-ground spectrum license previously granted by them along with other related assets for \$9 million . We expect to record a gain of \$7 million in the second quarter of 2013 in connection with this transaction.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Overview

First Quarter 2013 Highlights & Outlook

- We reported our twelfth consecutive quarter of net income.
- We generated \$205 million in cash from operations while strengthening our balance sheet by making debt and capital lease payments of \$52 million, ending the quarter with unrestricted cash and short term investments of \$849 million.
- We expanded our portfolio of commercial airline partnerships, adding one new airline partnership during the quarter, bringing our total to 23 airline partnerships as of March 31, 2013.
- We invested in one new EMBRAER 190 aircraft, which was debt financed.
- We commenced service to one new city during the first quarter of 2013.

We continue to deliver a unique JetBlue Experience to our customers with the superior service they have come to expect from us. In addition, our commitment to deliver increased returns for our shareholders remains at the core of our overall business strategy. We believe our continued focus on financial discipline, product innovation and network enhancements, combined with our service excellence, will drive our future success.

Strengthening of our Balance Sheet

Throughout the quarter, we continued to focus on strengthening our balance sheet. We ended the quarter with unrestricted cash, cash equivalents and short-term investments at approximately 17% of trailing twelve months revenue. Throughout the quarter, we reduced our overall debt balance by \$25 million. Additionally, we repurchased approximately 520,000 shares of our common stock for \$3 million.

Airport Infrastructure Investments

We extended the lease terms for our Terminal 5 at JFK. The lease extension incorporates a long term lease for approximately 19 acres of the former Terminal 6 property and provides for the construction of a new 150,000 square foot international arrivals facility, including six international arrival gates, to be adjoined to our existing Terminal 5 facility. This new facility will result in increased efficiencies and will improve the overall experience for our customers who travel internationally.

Network Initiatives

We continue to make network adjustments in furtherance of our overall network growth plans. As Boston's largest carrier, we now offer service to nearly 50 non-stop destinations from Boston's Logan International Airport, more than any other carrier in Boston. Boston short-haul markets continued to be an important driver of profitable growth, driven in large part by our increased relevance to higher yielding corporate travelers. Throughout the quarter, we continued to see strength in our Boston business-oriented markets, driving both load factor and yield improvements. We saw the strongest year over year PRASM improvements for the quarter in our transcon markets, driven by healthy increases in yield and load factor as well.

New Service

As part of our ongoing network initiatives and route optimization efforts, we continued to make schedule and frequency adjustments throughout the first quarter of 2013. During the quarter, we commenced service to one new destination: Charleston, South Carolina. Additionally, we have announced plans to begin service to the following destinations in the rest of 2013: Albuquerque, New Mexico, Philadelphia, Pennsylvania, Medellin, Colombia and Lima, Peru. Our growth also includes adding new routes between existing cities.

Ancillary Revenue Initiatives

Contributing to year over year revenue growth was record quarterly ancillary revenue per customer of \$22, up 3% year over year.

Outlook for 2013

For the full year, we estimate our operating capacity to increase approximately 6% to 8% over 2012 with the addition of three Airbus A320 aircraft and six EMBRAER 190 aircraft to our operating fleet through the remainder of the year. We will also take delivery of our first four Airbus A321 aircraft in the latter part of the year. The entry into service date of the Airbus

A321 will depend on the timing and successful completion of the FAA certification process. Assuming fuel prices of \$3.20 per gallon, net of our fuel hedging activity, our cost per available seat mile, CASM, for 2013 is expected to increase by 1.5% to 3.5% over 2012. This expected increase is primarily a result of continued maintenance cost pressures associated with the aging of our fleet and the acceleration of performance restorations of our higher flight hour EMBRAER 190 engines to improve operational reliability and extend time on wing. Additionally, salaries, wages and benefits are expected to increase due to the increasing tenure of our Crewmembers combined with efforts to maintain competitiveness of our compensation packages.

Results of Operations

First Quarter 2013 vs. 2012 Highlights

- Revenues were negatively impacted in the first quarter of 2013 as a result of the cancellation of school vacations in the northeast over the President's Day travel period.
- Operating capacity increased approximately 6% to 10.14 billion available seat miles in the first quarter of 2013.
- Average fares for the quarter increased 2% to \$163, our highest ever quarterly average fare.
- Operating expenses per available seat mile increased 5% to 12.23 cents. Excluding fuel, our cost per available seat mile increased 7% year over year.

Operating Revenues

(Revenues in millions)	Three Months Ended March 31,		Year-over-Year Change	
	2013	2012		%
Passenger Revenue	\$ 1,186	\$ 1,096	\$ 90	8.3
Other Revenue	113	107	6	5.0
Operating Revenues	\$ 1,299	\$ 1,203	\$ 96	8.0
Average Fare	\$ 162.53	\$ 159.93	\$ 2.60	1.6
Yield per passenger mile (cents)	13.95	13.86	0.09	0.7
Passenger revenue per ASM (cents)	11.70	11.49	0.21	1.8
Operating revenue per ASM (cents)	12.81	12.62	0.19	1.5
Average stage length (miles)	1,092	1,077	15	1.4
Revenue passengers (thousands)	7,300	6,853	447	6.5
Revenue passenger miles (millions)	8,506	7,908	598	7.6
Available Seat Miles (ASMs) (millions)	10,140	9,536	604	6.3
Load Factor	83.9%	82.9%		1.0 pts.

We reported net income of \$14 million for the three months ended March 31, 2013 compared to \$30 million for the three months ended March 31, 2012. For the three months ended March 31, 2013 we had operating income of \$59 million, a decrease of \$30 million over the same period in 2012, and an operating margin of 4.5%, down 2.9 points from 2012. Diluted earnings per share were \$0.05 for the first quarter of 2013 compared to \$0.09 for 2012.

We achieved year over year improvements in yield, fare, and load factor while growing capacity which is due in part to the shift in timing of the Passover and Easter Holidays which were in March of this year.

Our on-time performance, defined by the Department of Transportation, or DOT, as arrival within 14 minutes of schedule, was 73.3% in the first quarter of 2013 compared to 81.9% for the same period in 2012; our completion factor was 98.5% and 99.8% in 2013 and 2012, respectively. Our on time performance remains challenged by our concentration of operations in the northeast United States, which contains some of the most congested and delay prone airports in the U.S. and the unusually cold weather in the first quarter of this year.

Operating Expenses

In detail, operating costs per available seat mile were as follows (percent changes are based on unrounded numbers):

<i>(dollars in millions)</i>	Three Months Ended March 31,		Year-over-Year Change		per ASM		
	2013	2012	\$	%	2013	2012	% Change
Aircraft fuel and related taxes	\$ 467	\$ 433	\$ 34	8.0	4.61	4.54	1.5
Salaries, wages and benefits	280	255	25	9.5	2.76	2.68	3.0
Landing fees and other rents	70	66	4	5.9	0.69	0.70	(0.4)
Depreciation and amortization	68	61	7	11.9	0.67	0.64	5.2
Aircraft rent	32	33	(1)	(2.3)	0.32	0.35	(8.2)
Sales and marketing	50	47	3	6.0	0.49	0.49	(0.3)
Maintenance materials and repairs	114	88	26	29.8	1.13	0.92	22.1
Other operating expenses	159	131	28	20.7	1.56	1.37	13.5
Total operating expenses	\$ 1,240	\$ 1,114	\$ 126	11.3	12.23	11.69	4.6

Aircraft Fuel and Hedging

Aircraft fuel expense increased 8%, or \$34 million, and represented approximately 40% of our total operating expenses. The increase in year-over-year average fuel cost per gallon resulted in \$6 million of higher fuel expense. Additionally, we consumed nine million more gallons of aircraft fuel, resulting in \$28 million of higher fuel expense. Gains upon settlement of effective fuel hedges during the first quarter of 2013 were insignificant versus \$9 million in effective fuel hedge gains during the same period in 2012. Our average fuel cost per gallon was \$3.29 for the first quarter of 2013 compared to \$3.25 for the first quarter of 2012.

In addition to our fuel hedge portfolio, we also used fixed forward price agreements, or FFPs, which allow us to lock in the price of fuel for specified quantities and at specified locations in future periods to manage fuel price volatility. As of March 31, 2013, of our projected remaining 2013 fuel requirements, we had managed approximately 11% with FFPs. In April 2013, we entered into additional FFP agreements covering 2% of our 2014 projected fuel consumption.

Salaries, Wages and Benefits

In the first quarter of 2013, the average number of full-time equivalent employees increased by 4% resulting in an increase to salaries, wages and benefits. As a result of increased wages, our 5% retirement contribution, which we refer to as *Retirement Plus*, to all of our eligible Crewmembers increased by \$1 million. During 2012, we also introduced a *Retirement Advantage* program, providing an additional 3% retirement contribution for certain of our FAA-licensed Crewmembers, which resulted in \$2 million of increased expense in the quarter.

Depreciation and Amortization

Depreciation and amortization increased 12%, or \$7 million, primarily due to having an average of 120 owned and capital leased aircraft in 2013 compared to 110 in 2012.

Maintenance Materials and Repairs

Maintenance materials and repairs increased 30%, or \$26 million, primarily due to EMBRAER 190 aircraft engine removals and performance restorations which resulted in approximately \$20 million of unexpected expense. Additional increases are due to an average of 10 additional aircraft in 2013 compared to the same period in 2012 and the aging of our fleet, which has resulted in more costly heavy maintenance checks. As of March 31, 2013, our oldest operating aircraft has an average age of 13.3 years and the average age of our fleet increased to 6.9 years compared to 6.2 years as of March 31, 2012.

Other Operating Expenses

Other operating expenses increased due to the increase in certain variable costs as result of the colder weather conditions experienced in the northeast during the first quarter of 2013 as compared to 2012. In addition, LiveTV recorded an \$8 million gain related to the termination of a customer contract in the first quarter of 2012.

The following table sets forth our operating statistics for the three months ended March 31, 2013 and 2012 :

	Three Months Ended March 31,		Percent Change
	2013	2012	
Operating Statistics:			
Revenue passengers (thousands)	7,300	6,853	6.5
Revenue passenger miles (millions)	8,506	7,908	7.6
Available seat miles (ASMs) (millions)	10,140	9,536	6.3
Load factor	83.9%	82.9%	1.0 pts
Aircraft utilization (hours per day)	11.9	11.6	1.9
Operating Metrics:			
Average fare	\$ 162.53	\$ 159.93	1.6
Yield per passenger mile (cents)	13.95	13.86	0.7
Passenger revenue per ASM (cents)	11.70	11.49	1.8
Operating revenue per ASM (cents)	12.81	12.62	1.5
Operating expense per ASM (cents)	12.23	11.69	4.6
Operating expense per ASM, excluding fuel (cents)	7.62	7.15	6.6
Operating expense per ASM, excluding fuel & profit sharing (cents) (1)	7.62	7.15	6.6
Airline operating expense per ASM (cents) (2)	12.06	11.59	4.1
Operational Metrics:			
Departures	66,773	63,546	5.1
Average stage length (miles)	1,092	1,077	1.4
Average number of operating aircraft during period	180.3	170.3	5.8
Average fuel cost per gallon	\$ 3.29	\$ 3.25	1.3
Fuel gallons consumed (millions)	142	133	6.6
Full-time equivalent employees at period end (2)	12,385	11,965	3.5

(1) Refer to our “Regulation G Reconciliations” note below for more information on this non-GAAP measure.

(2) Excludes operating expenses and employees of LiveTV, LLC, which are unrelated to our airline operations.

Although we experienced revenue growth in 2013, this trend may not continue. We expect our expenses to continue to increase as we acquire additional aircraft, as our fleet ages and as we expand the frequency of flights in existing markets and enter into new markets. Accordingly, the comparison of the financial data for the quarterly periods presented may not be meaningful. In addition, we expect our operating results to fluctuate significantly from quarter-to-quarter in the future as a result of various factors, many of which are outside of our control. Consequently, we believe quarter-to-quarter comparisons of our operating results may not necessarily be meaningful; you should not rely on our results for any one quarter as an indication of our future performance.

Liquidity and Capital Resources

The airline business is capital intensive. Our ability to successfully execute our profitable growth plans is largely dependent on the continued availability of capital on attractive terms. In addition, our ability to successfully operate our business is dependent on maintaining sufficient liquidity. We believe we have adequate resources from a combination of cash and cash equivalents and investment securities on hand and available lines of credit. As of March 31, 2013, we had 11 unencumbered A320 aircraft and nine unencumbered spare engines which we believe could be an additional source of liquidity, if necessary.

We intend to continue to be diligent with our liquidity, maintaining financial flexibility and allowing for prudent capital spending, which in turn we expect to lead to improved returns for our shareholders. As described in Note 3, we obtained a new \$350 million revolving credit facility, which is secured in part by our airport take-off and landing slots at certain domestic airports. We believe this action, which brings total credit lines to \$550 million, is consistent with our efforts to right-size our

cash balance, in line with our focus on Return on Invested Capital, or ROIC. In addition, we recently refinanced approximately \$42 million in municipal bonds secured by our training center and hangar in Orlando, which we anticipate will result in roughly \$1 million in annual interest savings.

At March 31, 2013, we had unrestricted cash and cash equivalents of \$346 million and short-term investments of \$503 million compared to cash and cash equivalents of \$182 million and short-term investments of \$549 million at December 31, 2012. As of March 31, 2013, our unrestricted cash, cash equivalents and short-term investments as a percentage of trailing twelve months revenue was approximately 17%. We rely primarily on operating cash flows to provide working capital for current and future operations. Cash flows from operating activities were \$205 million and \$292 million for the three months ended March 31, 2013 and 2012, respectively. The decrease in operating cash flows is primarily attributable to lower working capital.

Investing Activities. During the three months ended March 31, 2013, capital expenditures related to our purchase of flight equipment included \$29 million for one aircraft, \$9 million for flight equipment deposits and \$10 million for spare part purchases. Capital expenditures for other property and equipment, including ground equipment purchases, facilities improvements and LiveTV inflight-entertainment equipment inventory were \$35 million. Investing activities also include the net purchase of \$82 million in investment securities.

During the three months ended March 31, 2012, capital expenditures related to our purchase of flight equipment included \$103 million for one Airbus A320 aircraft, two EMBRAER 190 aircraft and three spare engines, \$15 million for flight equipment deposits and \$5 million for spare part purchases. Capital expenditures for other property and equipment, including ground equipment purchases, facilities improvements and LiveTV inventory were \$61 million, which includes \$32 million for the 16 slots we purchased at LaGuardia International Airport and Ronald Reagan International Airport in 2011. Investing activities also included the net proceeds from the sale and maturities of \$15 million in investment securities.

Financing Activities. Financing activities for the three months ended March 31, 2013 consisted of (1) scheduled maturities of \$52 million of debt and capital lease obligations, (2) our issuance of \$24 million in non-public floating rate equipment notes secured by one aircraft, (3) the repayment of \$3 million in principal related to our construction obligation for Terminal 5 and (4) the acquisition of \$7 million in treasury shares related to our share repurchase program and the withholding of taxes upon the vesting of restricted stock units.

We may in the future issue, in one or more public offerings, debt securities, pass-through certificates, common stock, preferred stock and/or other securities.

Financing activities for the three months ended March 31, 2012 consisted of (1) scheduled maturities of \$47 million of debt and capital lease obligations, (2) the repayment of \$88 million under our corporate purchasing line, (4) the repayment of \$6 million in principal related to our construction obligation for Terminal 5 and (5) the acquisition of \$3 million in treasury shares related to the withholding of taxes upon the vesting of restricted stock units.

Working Capital. We had a working capital deficit of \$676 million at March 31, 2013, compared to a working capital deficit of \$508 million at December 31, 2012. Working capital deficits can be customary in the airline industry since air traffic liability is classified as a current liability. Included in our working capital deficit is \$188 million of indebtedness related to our aircraft EETCs due in the first quarter of 2014. Also contributing to our working capital deficit as of March 31, 2013 is \$98 million in marketable investment securities classified as long-term assets.

We expect to meet our obligations as they become due through available cash, investment securities and internally generated funds, supplemented as necessary by financing activities, as they may be available to us. We expect to generate positive working capital through our operations. However, we cannot predict what the effect on our business might be from the extremely competitive environment we are operating in or from events that are beyond our control, such as volatile fuel prices, economic conditions, weather-related disruptions, the impact of airline bankruptcies, restructurings or consolidations, U.S. military actions or acts of terrorism. We believe the working capital available to us will be sufficient to meet our cash requirements for at least the next 12 months.

Our scheduled debt maturities are expected to increase over the next five years, with a scheduled peak in 2014 of nearly \$575 million. We will continue to actively manage our debt balances opportunistically by pre-purchasing outstanding debt when market conditions and terms are favorable. Additionally, our unencumbered assets, including 11 A320 aircraft, allows us some flexibility in managing our cost of debt and capital requirements.

Contractual Obligations

Our noncancelable contractual obligations at March 31, 2013, include the following (in millions):

	Payments due in						
	Total	2013	2014	2015	2016	2017	Thereafter
Long-term debt and capital lease obligations (1)	3,407	\$ 439	\$ 675	\$ 344	\$ 529	\$ 239	\$ 1,181
Lease commitments	1,474	148	194	191	126	114	701
Flight equipment purchase obligations	4,965	320	525	745	765	575	2,035
Financing obligations and other (2)	3,099	358	414	386	324	313	1,304
Total	\$ 12,945	\$ 1,265	\$ 1,808	\$ 1,666	\$ 1,744	\$ 1,241	\$ 5,221

(1) Includes actual interest and estimated interest for floating-rate debt based on March 31, 2013 rates.

(2) Amounts include noncancelable commitments for the purchase of goods and services.

We are subject to certain collateral ratio requirements in our spare parts pass-through certificates and spare engine financing issued in November 2006 and December 2007, respectively. As a result of lower spare parts inventory balances and the associated reduced third party valuation of these parts, we were not in compliance with these covenants as of March 31, 2013. As a result, subsequent to the first quarter, we pledged as new collateral a previously unencumbered spare engine with a carrying value of approximately \$7 million and elected to redeem \$2 million of the enhanced equipment notes to be settled in April 2013. As of March 31, 2013 we were in compliance with all of our other covenants.

We have approximately \$31 million of restricted cash pledged under standby letters of credit related to certain of our leases which will expire at the end of the related lease terms. As of March 31, 2013, we operated a fleet of 127 Airbus A320 aircraft and 54 EMBRAER 190 aircraft, of which 117 were owned, 60 were leased under operating leases and four were leased under capital leases. Eleven of the 117 owned aircraft were unencumbered as of March 31, 2013. The average age of our operating fleet was 6.9 years at March 31, 2013. During 2012, we extended the date for which we may elect not to further amend our purchase agreement for the order of a new EMBRAER 190 variant to July 31, 2013. If the new variant is not elected, seven EMBRAER 190 aircraft we previously deferred may either be returned to their previously committed to delivery dates in 2013 and 2014 or canceled and subject to cancellation fees.

As of March 31, 2013, we had on order 14 Airbus A320 aircraft, 30 Airbus A321 aircraft, 40 Airbus A320 neo aircraft and 30 EMBRAER 190 aircraft as follows:

Year	Firm				Total
	Airbus A320	Airbus A321	Airbus A320 neo	EMBRAER 190	
2013	3	4	—	6	13
2014	—	9	—	1	10
2015	—	10	—	7	17
2016	3	7	—	8	18
2017	8	—	—	5	13
2018	—	—	10	3	13
2019	—	—	10	—	10
2020	—	—	10	—	10
2021	—	—	10	—	10
Total	14	30	40	30	114

Committed expenditures for our 114 firm aircraft and 10 spare engines include estimated amounts for contractual price escalations and predelivery deposits. Debt financing has been arranged for our remaining EMBRAER 190 firm aircraft delivery

scheduled for 2013. We may pay cash for the remaining deliveries scheduled in 2013, unless debt financing is available on favorable borrowing terms relative to our weighted average cost of debt. Although we believe debt and/or lease financing should be available for our remaining aircraft deliveries, we cannot give any assurance that we will be able to secure financing on attractive terms, if at all. While these financings may or may not result in an increase in liabilities on our balance sheet, our fixed costs will increase significantly regardless of the financing method ultimately chosen. To the extent we cannot secure financing on terms we deem attractive, we may be required to pay in cash, further modify our aircraft acquisition plans or incur higher than anticipated financing costs. Capital expenditures for facility improvements, spare parts, aircraft improvements, and ground purchases are expected to be approximately \$270 million for the remainder of 2013.

In November 2005, we executed a 30-year lease agreement with the PANYNJ, for the construction and operation of T5 which became our principal base of operations at JFK in October 2008. For financial reporting purposes only, this lease is being accounted for as a financing obligation because we did not qualify for sale-leaseback accounting due to our continuing involvement in the property following its construction. JetBlue has committed to rental payments under the lease, which are included as part of lease commitments in the contractual obligations table above. Facility rents commenced with our beneficial occupancy of the new terminal in 2008 and are included as part of "financing obligations and other" in the contractual obligations table above. In March 2013, we extended the lease terms with the PANYNJ to 2042, with the option for early termination in 2033. The minimum rents associated with this lease extension are also reflected in the table above.

Off-Balance Sheet Arrangements

None of our operating lease obligations are reflected on our balance sheet. Although some of our aircraft lease arrangements are variable interest entities, as defined in the *Consolidations* topic of the Codification, none of them require consolidation in our financial statements. The decision to finance these aircraft through operating leases rather than through debt was based on an analysis of the cash flows and tax consequences of each option and a consideration of our liquidity requirements and an assessment of future residual values. We are responsible for all maintenance, insurance and other costs associated with operating these aircraft; however, we have not made any residual value or other guarantees to our lessors.

We have determined that we hold a variable interest in, but are not the primary beneficiary of, certain pass-through trusts which are the purchasers of equipment notes issued by us to finance the acquisition of new aircraft and are held by such pass-through trusts. These pass-through trusts maintain liquidity facilities whereby a third party has agreed to make payments sufficient to pay up to 18 months of interest on the applicable certificates if a payment default occurs. The liquidity providers for the Series 2004-1 certificates and the spare parts certificates are Landesbank Hessen-Thüringen Girozentrale and Morgan Stanley Capital Services Inc. The liquidity providers for the Series 2004-2 certificates are Landesbank Baden-Württemberg and Citibank, N.A.

We use a policy provider to provide credit support on the Class G-1 and Class G-2 certificates. The policy provider has unconditionally guaranteed the payment of interest on the certificates when due and the payment of principal on the certificates no later than 18 months after the final expected regular distribution date. The policy provider is MBIA Insurance Corporation (a subsidiary of MBIA, Inc.). Financial information for the parent company of the policy provider is available at the SEC's website at <http://www.sec.gov> or at the SEC's public reference room in Washington, D.C.

We have also made certain guarantees and indemnities to other unrelated parties that are not reflected on our balance sheet, which we believe will not have a significant impact on our results of operations, financial condition or cash flows. We have no other off-balance sheet arrangements.

Critical Accounting Policies and Estimates

There have been no material changes to our critical accounting policies and estimates from the information provided in Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations-Critical Accounting Policies and Estimates included in our 2012 Form 10-K.

Other Information

Forward-Looking Information. This report contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, which represent our management's beliefs and assumptions concerning future events. When used in this document and in documents incorporated herein by reference, the words "expects," "plans," "anticipates," "indicates," "believes," "forecast," "guidance," "outlook," "may," "will," "should," "seeks," "targets" and similar expressions are intended to identify forward-looking statements. Forward-looking statements involve risks, uncertainties and assumptions, and are based on information currently available to us. Actual results may differ materially from those expressed in the forward-looking statements due to many factors, including, without limitation, our extremely competitive industry; increases and volatility in fuel prices, increases in maintenance costs and interest rates; our ability to implement our growth strategy; our significant fixed obligations and substantial indebtedness; our ability to attract and retain qualified personnel and maintain our culture as we grow; our reliance on high daily aircraft utilization; our

dependence on the New York metropolitan market and the effect of increased congestion in this market; our reliance on automated systems and technology; our being subject to potential unionization, work stoppages, slowdowns or increased labor costs; our reliance on a limited number of suppliers; our presence in some international emerging markets that may experience political or economic instability or may subject us to legal risk; reputational and business risk from information security breaches; a negative impact on the JetBlue brand; the long term nature of our fleet order book; changes in or additional government rules, regulations or laws; changes in our industry due to other airlines' financial condition; the impact on our growth because of economic difficulties in Europe through a continuance of the economic recessionary conditions in the U.S. or a further economic downturn leading to a continuing or accelerated decrease in demand for domestic and international routes, including business, leisure and/or visiting friends and relatives air travel; and external geopolitical events and conditions. It is routine for our internal projections and expectations to change as the year or each quarter in the year progresses, and therefore it should be clearly understood that the internal projections, beliefs and assumptions upon which we base our expectations may change prior to the end of each quarter or year. Other than as required by law, we undertake no obligation to update or revise forward-looking statements, whether as a result of new information, future events, or otherwise.

Given the risks and uncertainties surrounding forward-looking statements, you should not place undue reliance on these statements. You should understand that many important factors, in addition to those discussed or incorporated by reference in this report, could cause our results to differ materially from those expressed in the forward-looking statements. Potential factors that could affect our results include, in addition to others not described in this report, those described in Item 1A of our 2012 Form 10-K under "Risks Related to JetBlue" and "Risks Associated with the Airline Industry" and part II of this Report. In light of these risks and uncertainties, the forward-looking events discussed in this Report might not occur.

Where You Can Find Other Information

Our website is www.jetblue.com. Information contained on our website is not part of this Report. Information that we furnish or file with the SEC, including our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and any amendments or exhibits included in these reports are available for download, free of charge, on our website soon after such reports are filed with or furnished to the SEC. Our SEC filings, including exhibits filed therewith, are also available at the SEC's website at www.sec.gov. You may obtain and copy any document we furnish or file with the SEC at the SEC's public reference room at 100 F Street, NE, Room 1580, Washington, D.C. 20549. You may obtain information on the operation of the SEC's public reference facilities by calling the SEC at 1-800-SEC-0330. You may request copies of these documents, upon payment of a duplicating fee, by writing to the SEC at its principal office at 100 F Street, NE, Room 1580, Washington, D.C. 20549.

Regulation G Reconciliations

Consolidated operating cost per available seat mile, excluding fuel and profit sharing (CASM ex-fuel and profit sharing) is a non-GAAP financial measure that we use as a measure of our performance.

CASM is a common metric used in the airline industry. We exclude aircraft fuel and related taxes and profit sharing from operating cost per available seat mile to determine CASM ex-fuel and profit sharing. We believe that CASM ex-fuel and profit sharing provides investors the ability to measure financial performance excluding items beyond our control, such as (i) fuel costs, which are subject to many economic and political factors beyond our control, and (ii) profit sharing, which is sensitive to volatility in earnings. We believe this measure is more indicative of our ability to manage costs and is more comparable to measures reported by other major airlines. We are unable to reconcile projected CASM ex-fuel and profit sharing as the nature or amount of excluded items are only estimated at this time.

We believe this non-GAAP measure provides a more meaningful comparison of our results to others in the airline industry and our prior year results. Investors should consider this non-GAAP financial measure in addition to, and not as a substitute for, our financial performance measures prepared in accordance with GAAP. Further, our non-GAAP information may be different from the non-GAAP information provided by other companies.

RECONCILIATION OF OPERATING EXPENSE PER ASM, EXCLUDING FUEL AND PROFIT SHARING

(unaudited)

	Three Months Ended March 31,			
	2013		2012	
	\$	per ASM	\$	per ASM
<i>(dollars in million, per ASM data in cents)</i>				
Total operating expenses	\$ 1,240	12.23	\$ 1,114	11.69
Less: Aircraft fuel and related taxes	467	4.61	433	4.54
Operating expenses, excluding fuel	773	7.62	681	7.15
Less: Profit sharing	—	—	—	—
Operating expense, excluding fuel & profit sharing	\$ 773	7.62	\$ 681	7.15

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

There have been no material changes in market risks from the information provided in Item 7A. Quantitative and Qualitative Disclosures About Market Risk included in our 2012 Form 10-K, except as follows:

Aircraft Fuel. Our results of operations are affected by changes in the price and availability of aircraft fuel. Market risk is estimated as a hypothetical 10% increase in the March 31, 2013 cost per gallon of fuel. Based on our projected twelve month fuel consumption and including the impact of our hedging position, such an increase would result in an increase to aircraft fuel expense of approximately \$199 million in 2013, compared to an estimated \$190 million for 2012 measured as of March 31, 2012. As of March 31, 2013, we had hedged approximately 23% of our expected remaining 2013 fuel requirements using Brent crude oil collars, jet fuel swaps and cap agreements. See Note 8 to our unaudited condensed consolidated financial statements for additional information.

Fixed Rate Debt. On March 31, 2013, our \$285 million aggregate principal amount of convertible debt had an estimated fair value of \$456 million, based on quoted market prices.

Interest. Our earnings are affected by changes in interest rates due to the impact those changes have on interest expense from variable-rate debt instruments. The interest rate is fixed for \$1.70 billion of our debt and capital lease obligations, with the remaining \$1.12 billion having floating interest rates. As of March 31, 2013, if interest rates were, on average, 100 basis points higher in 2013 than they were during 2012, our annual interest expense would increase by approximately \$15 million. This is determined by considering the impact of the hypothetical change in interest rates on our variable rate debt.

If interest rates average 10% lower in 2013 than they did during 2012, our interest income from cash and investment balances would remain relatively constant. These amounts are determined by considering the impact of the hypothetical interest rates on our cash equivalents and investment securities balances at March 31, 2013 and December 31, 2012.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act that are designed to ensure that information required to be disclosed in our SEC reports is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and that such information is accumulated and communicated to our management, including our Chief Executive Officer, or CEO, and our Chief Financial Officer, or CFO, as appropriate, to allow timely decisions regarding required disclosure.

In connection with the preparation of this Report, our management, with the participation of our CEO and CFO, performed an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures as of March 31, 2013. Based on, and as of the date of, that evaluation, our CEO and CFO concluded that our disclosure controls and procedures were effective as of March 31, 2013.

Changes in Internal Control Over Financial Reporting

There were no changes in the Company's internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) identified in connection with the evaluation of our controls performed during the fiscal quarter ended March 31, 2013, that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

In the ordinary course of our business, we are party to various legal proceedings and claims which we believe are incidental to the operation of our business. Refer to Note 7-Commitments and Contingencies to our condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

ITEM 1A. RISK FACTORS

The following is an update to Item 1A Risk Factors contained in our Annual Report on Form 10-K for the year ended December 31, 2012, or our 2012 Form 10-K. For additional risk factors that could cause actual results to differ materially from those anticipated, please refer to our 2012 Form 10-K.

The impact of federal sequester budget cuts mandated by the Budget Control Act of 2011 may adversely affect our industry, business, results of operations and financial position.

On April 16, 2013, the Federal Aviation Administration, or FAA, imposed furloughs mandated by the Budget Control Act of 2011, which included reduced staffing of air traffic controllers. This action resulted in increased delays, reduced arrival rates and flight cancellations across the airline industry and impacting the flying public for approximately one week until Congress passed legislation allowing the FAA to redirect other funds to cover staffing for air traffic controllers. Much of our airline operations are controlled by governmental agencies, including the FAA, Customs and Border Protection and Transportation Security Administration and others. Should mandatory furloughs and other budget constraints resulting from the Budget Control Act of 2011 continue for an extended period of time, our business operations could be negatively impacted. The travel behaviors of the flying public could also be affected, which may materially adversely impact our industry and our business.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

REPURCHASES OF EQUITY SECURITIES

Period	Total Number of Shares Purchased (1)	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Program	Maximum Number of Shares that May Yet Be Purchased Under the Program
January 2013	257,725	\$ 5.90	257,725	
February 2013	261,200	5.89	261,200	
March 2013	—	—	—	
Total	518,925	\$ 5.90	518,925	20,403,430

(1) In September 2012, the Board had previously authorized a total five year share repurchase program of up to 25 million shares. As of March 31, 2013, 20.4 million shares remain available for repurchase under the program. The program may be commenced or suspended from time to time without prior notice. The shares repurchased under our share repurchase program were purchased in open market transactions and are held as treasury stock.

ITEM 6. EXHIBITS

Exhibits: See accompanying Exhibit Index included after the signature page of this Report for a list of the exhibits filed or furnished with this Report.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

JETBLUE AIRWAYS CORPORATION

(Registrant)

By: /s/ DONALD DANIELS

Vice President, Controller and Chief Accounting Officer (Principal Accounting Officer)

Date: May 8, 2013

EXHIBIT INDEX

Exhibit Number	Exhibit
10.20(a)	Supplement No. 3 to Agreement of Lease, dated July 1, 2012 between The Port Authority of New York and New Jersey and JetBlue Airways Corporation
12.1	Computation of Ratio of Earnings to Fixed Charges.
31.1	13a-14(a)/15d-14(a) Certification of the Chief Executive Officer.
31.2	13a-14(a)/15d-14(a) Certification of the Chief Financial Officer.
32	Certification Pursuant to Section 1350, furnished herewith.
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.LAB	XBRL Taxonomy Extension Labels Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document

THIS SUPPLEMENTAL AGREEMENT SHALL NOT BE BINDING UPON
THE PORT AUTHORITY UNTIL DULY EXECUTED BY
AN EXECUTIVE OFFICER THEREOF AND DELIVERED
TO THE LESSEE BY AN AUTHORIZED
REPRESENTATIVE OF THE PORT AUTHORITY

Port Authority Lease No. AYD-350

Facility: John F. Kennedy International Airport

Supplement No. 3

SUPPLEMENTAL AGREEMENT

This SUPPLEMENTAL AGREEMENT (the “ **Third Supplement** ”), made as of July 1, 2012 (which date is hereinafter called the “ **Effective Date** ”), by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (the “ **Port Authority** ”), a body corporate and politic, established by Compact between the States of New Jersey and New York with the consent of the Congress of the United States of America, and having an office at 225 Park Avenue South, in the Borough of Manhattan, City, County and State of New York 10003, and JETBLUE AIRWAYS CORPORATION (the “ **Lessee** ”), a corporation of the State of Delaware with an office and place of business at 27-01 Queens Plaza North, Long Island City, New York 11101, whose representative is its Vice President of Corporate Real Estate.

WITNESSETH, That

WHEREAS, heretofore and as of May 6, 2005, the Port Authority and the Lessee entered into an Agreement of Lease (hereinafter, as the said Lease has heretofore been amended, modified and supplemented the “ **Lease** ”), covering premises at John F. Kennedy International Airport, in the County of Queens, City and State of New York;

WHEREAS, the Port Authority and the Lessee have previously amended the Lease pursuant to Supplement No. 1, dated *ab initio* as of May 6, 2005 (the “ **First Supplement** ”) and Supplement No. 2, dated as of December 27, 2010 (the “ **Second Supplement** ”);

WHEREAS, pursuant to the Second Supplement, the parties contemplated that they may negotiate a separate and different agreement for the Lessee to redevelop the Terminal 6 Additional Premises and/or to expand Terminal 5 onto the Terminal 6 Additional Premises during the Terminal 6 Additional Premises Term and the parties acknowledge that this Third Supplement constitutes the contemplated agreement referenced in the Second Supplement;

WHEREAS, the parties have entered into a letter agreement (“TAA Letter Agreement”), dated as of October 15, 2012, pursuant to which the Lessee was permitted to commence certain work, prior to the parties’ execution of this Third Supplement, in connection with its Proposed Redevelopment Plan (as defined therein) which the parties acknowledge has the same meaning as the T5i Project- Phase 1 (as defined herein);

WHEREAS, the Port Authority and the Lessee desire to further amend the Lease; and

WHEREAS, all capitalized terms not defined herein shall bear the meaning set forth in the Lease.

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

1. Definitions.

For purposes of this Supplement, the following terms shall have the respective meanings given below:

“ *Additional Premises Expiration Date* ” shall mean 11:59 o’clock P.M. on the date that is the twenty eighth (28th) anniversary of the T5i Project-Phase 1 DBO Date, unless sooner terminated in accordance with the terms and provisions of the Lease. The Additional Premises Expiration Date and the Expiration Date (defined in Section 3 of the Lease) shall be the same, as of the Effective Date.

“ *Adjustment Period* ” shall mean, as the context requires, the calendar month constituting the Base Period and the same calendar month in each calendar year thereafter during the relevant term of the letting.

“ *Airport* ” shall have the meaning ascribed to it in Section 1 of the Lease, entitled “Letting”.

“ *Anniversary Date* ” shall mean, as the context requires, the First Anniversary Date and each subsequent anniversary of such date occurring during the Term.

“ *Annual Rental Escalation Index Increase* ” shall mean the percentage of increase in the Rental Escalation Index on each Anniversary Date, equal to: (x) with respect to the First Anniversary Date, a fraction of which the numerator shall be the Rental Escalation Index for the first Adjustment Period immediately preceding such Anniversary Date less the Rental Escalation Index for the Base Period, and the denominator shall be the Rental Escalation Index for the Base Period, and (y) with respect to each Anniversary Date thereafter, a fraction of which the numerator shall be the Rental Escalation Index for the Adjustment Period immediately preceding such Anniversary Date less the Rental Escalation Index for the next preceding Adjustment Period, and the denominator shall be the Rental Escalation Index for such next preceding Adjustment Period. For example, the Annual Rental Escalation Index Increase for the November 1, 2040 Anniversary Date would be a fraction of which the numerator is the Rental Escalation Index for October 2040 less the Rental Escalation Index for October 2039 and the denominator is the Rental Escalation Index for October 2039.

“ *Approved Soil Disposal Site* ” and “ *Approved Soil Disposal Sites* ” shall have the meanings set forth in Paragraph 8 (y) herein.

“ *Base Period* ” shall mean October 2038 and shall relate to the T5 Facility Rental.

“ *Completion Date* ” shall mean the date appearing on the certificate issued by the Port Authority pursuant to subparagraph (1) of Paragraph 8(aa) after the completion of the Construction Work.

“ *Comprehensive Plan* ” shall have the meaning set forth in Paragraph 8(b)(1) of this Third Supplement.

“ *Construction Application* ” shall have the meaning set forth in Paragraph 8(e) herein.

“ *Construction Work* ” shall have the meaning set forth in Paragraph 8(b)(1) herein.

“ *Effective Date* ” shall have the meaning set forth in the introductory paragraph.

“ *Eligible PFC Construction Work* ” shall have the meaning set forth in Paragraph 13(b) herein.

“ *Environmental Management Plan* ” shall have the meaning set forth in Paragraph 8(z)(iii) herein.

“ *First Anniversary Date* ” shall mean November 1, 2039 and relate to the T5 Facility Rental only and no other rentals due under the Lease.

“ *First Supplement* ” shall have the meaning ascribed to it in the second WHEREAS clause herein.

“ *Incremental Tipping Fee* ” shall have the meaning set forth in Paragraph 8(y)(iii)(a) of this Third Supplement.

“ *JetBlue Discharge Permit* ” shall have the meaning set forth in Paragraph 8(z)(i) herein.

“ *JFK SPDES Permit* ” shall have the meaning set forth in Paragraph 8(z)(i) herein.

“ *Lease* ” shall have the meaning ascribed to it in the first WHEREAS clause hereof.

“ *Lessee* ” shall have the meaning set forth in the introductory paragraph.

“ *Lessee Environmental Consultant* ” shall have the meaning set forth in Paragraph 8(z)(ix).

“ *Lessee Environmental Representative* ” shall have the meaning set forth in Paragraph 8(z)(ix) herein.

“ *Matter* ” shall have the meaning set forth in Paragraph 8(y)(i) herein.

“ *NFA* ” shall have the meaning set forth in Paragraph (8)(z)(vii) herein.

“ *Non-Buildout Take Back Parcel* ” shall have the meaning set forth in Paragraph 5(b)(i) of this Third Supplement.

“ *Non-Buildout Take Back Parcel Surrender Date* ” shall have the meaning set forth in Paragraph 5(c) hereof.

“ *Non-Buildout Termination Notice* ” shall have the meaning set forth in Paragraph 5(b)(ii) of this Third Supplement.

“ *Non-Relocated Infrastructure* ” shall have the meaning set forth in Paragraph 8(w)(2) of this Third Supplement.

“ *Parcel HS* ” shall have the meaning set forth in Paragraph 6(b) of this Third Supplement.

“*Parcel MTA*” shall mean an area of approximately 9,650 square feet, constituting a portion of the Terminal 6 Additional Premises, and is shown in broken diagonal hatching on the sketch attached hereto and hereby made a part hereof and marked Exhibit MTA.

“*Parcel MTA Surrender Date*” shall have the meaning set forth in Paragraph 11(a) of this Third Supplement.

“*Parcel TH1*” shall have the meaning set forth in Paragraph 7(a) of this Third Supplement.

“*Parcel TH2*” shall have the meaning set forth in Paragraph 7(a) of this Third Supplement.

“*Parcel TH Hardstand Areas*” shall have the meaning set forth in Paragraph 7(a) of this Third Supplement.

“*Partial Approval Work*” shall have the meaning set forth in Paragraph 8(f) of this Third Supplement.

“*Percentage Increase*” shall mean, with respect to each Anniversary Date, a percentage equal to one half (1/2) of the Annual Rental Escalation Index Increase for that Anniversary Date.

“*Petroleum Contaminated Soil*” shall mean excavated soil in connection with the T5i Project-Phase 1 that contains elevated levels of petroleum related constituents such that the excavated soil requires treatment at a State licensed treatment facility to reduce the concentrations of such constituents to levels acceptable for reuse.

“*PFCs*” shall mean passenger facility charges covered by Part 158 of Title 14 of the Code of Federal Regulations Section 158.3, imposed by a public agency on passengers enplaned at a commercial service airport it controls.

“*Redevelopment Outside Date*” shall have the meaning set forth in Paragraph 5(a) herein.

“*Relocation Work*” shall have the meaning set forth in Paragraph 8(w)(i) herein.

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

“ *Rental Escalation Index* ” shall mean the Consumer Price Index for All Urban Consumers - New York-Northern New Jersey-Long Island, NY-NJ-CT (All Items, unadjusted 1982-84=100) published by the Bureau of Labor Statistics of the United States Department of Labor.

“ *Right of First Refusal Notice* ” shall have the meaning set forth in Paragraph 5(b)(iii) of this Third Supplement.

“ *Second Supplement* ” shall have the meaning ascribed to it in the second WHEREAS clause hereof.

“ *Spill* ” shall have the meaning set forth in Paragraph 8(z)(iv) herein.

“ *Spill 1114383* ” shall have the meaning set forth in Paragraph 10(a) of this Third Supplement.

“ *TAA Letter Agreement* ” shall have the meaning set forth in the fourth WHEREAS clause hereof.

“ *TCAP* ” shall mean the Port Authority’s Tenant Construction and Alteration Process, as the same may change or be amended from time to time. Compliance with the TCAP shall include, without limitation, compliance with the Port Authority Tenant Construction Review Manual and the Port Authority Aviation Department Tenant Construction and Alteration Process Manual as the same may be amended from time to time.

“ *T5-T7 Ramp Improvement Site* ” shall have the meaning set forth in Paragraph 13 hereof.

“ *T5-T7 Ramp Improvement Work* ” shall have the meaning set forth in Paragraph 8(a)(v).

“ *T5 Facility Rental* ” shall have the meaning set forth in Paragraph 3I(a) of this Third Supplement.

“ *T5 Petroleum Contaminated Soil* ” shall have the meaning set forth in Paragraph 8(y)(iii) of this Third Supplement.

“ *T5i Project-Phase 1* ” shall have the meaning set forth in Paragraph 4(a) of this Third Supplement.

“ *T5i Project-Phase 1 Basis of Design* ” shall have the meaning set forth in Paragraph 8(b)(1) of this Third Supplement.

“ *T5i Project-Phase 1 DBO* ” and “ *T5i Project-Phase 1 Date of Beneficial Occupancy* ” shall each mean the date of the issuance of a certificate issued by the Port Authority pursuant to Paragraph 8(aa) or 8(bb), as applicable, of this Third Supplement covering the completion of that part of the T5i Project-Phase I which relates to the construction of an international arrivals hall with a Federal Inspections Service (FIS) facility such that the international arrivals hall and FIS facility are sufficiently completed so as to allow the use and occupancy thereof.

“ *T5i Project-Phase 2* ” shall have the meaning set forth in Paragraph 5(a) of this Third Supplement.

“T5i Project-Phase 3” shall have the meaning set forth in Paragraph 5(a) of this Third Supplement.

“Terminal 6 Additional Premises” shall have the meaning ascribed to it in the Second Supplement.

“Tipping Fee” shall mean the cost paid to dispose of contaminated soil at a disposal facility/final destination site and shall expressly exclude loading and transportation costs in connection with getting such soil to the disposal facility/final destination site.

“T6 Phase 1 Redevelopment Area” shall mean the area contained within the Terminal 6 Additional Premises (as defined in the Second Supplement) on which the T5i Project-Phase 1 shall be performed, in accordance with the T5i Project-Phase 1 Basis of Design.

“T6 Non-Phase 1 Redevelopment Area” shall mean that portion of the Terminal 6 Additional Premises which is not part of the T6 Phase 1 Redevelopment Area, i.e., the balance of the Terminal 6 Additional Premises. The T6 Phase 1 Redevelopment Area and the T6 Non-Phase 1 Redevelopment Area shall together comprise the Terminal 6 Additional Premises.

2. Term.

(a) As of the Effective Date of this Third Supplement, paragraph (a) of Section 3 of the Lease, entitled “Term”, shall be revised to read as follows:

“(a) The term of the letting under this Lease (the “Term”) shall commence on the Lease Commencement Date and shall expire on the date (“the “Expiration Date”) that is the twenty eighth (28th) anniversary of the T5i Project-Phase 1 DBO, as defined in the Third Supplement to this Lease, unless this Lease is sooner terminated in accordance with its terms. The Additional Premises Expiration Date and the Expiration Date, as of the effective date of the Third Supplement (defined in such Third Supplement as the Effective Date), shall be the same date and shall have the same meaning.”

(b) The definition of “Additional Premises Expiration Date”, as defined in the Second Supplement, shall be amended and restated as set forth in the paragraph, entitled “Definitions”, of this Third Supplement. The parties acknowledge that any and all obligations and liabilities of the Lessee relating to the Additional Premises which would have matured as of the stated Additional Premises Expiration Date under said Second Supplement shall instead mature as of the Additional Premises Expiration Date as amended by this Third Supplement, and any all obligations and liabilities of the Lessee relating to the Additional Premises which were stated or intended to survive the expiration of such term of letting shall be understood to survive expiration of the term of the letting of the Additional Premises, as such term is extended by this Third Supplement. For the avoidance of doubt, and by way of example only, all provisions of Paragraph 12 of the Second Supplement, entitled “Environmental Obligations”, shall survive and continue under this Third Supplement including, without limitation, those relating to Remediation of the Terminal 6 Additional Premises, System Closure Work and work and payment in connection therewith, and de-icing operations.

(c) For the avoidance of doubt, there shall be no modification to paragraph (b) of Section 3 to the Lease.

3. Facility Rentals; Demolition Additional Rental; Terminal 5-i Additional Rental.

I. T5 Facility Rental

(a) Area Subject to T5 Facility Rental. In addition to all rentals and other amounts due and payable pursuant to the Lease, effective November 1, 2038, the Lessee shall pay an annual facility rental (“ **T5 Facility Rental** ”) with respect to the terminal space at Passenger Terminal 5 at the Airport (which the parties estimate will be approximately 640,000 square feet, it being understood that for purposes of computing the T5 Facility Rental such square footage does not include the approximately 150,000 square feet of passenger terminal space that is to be constructed by the Lessee as part of the T5i Project-Phase 1). No facility rental shall be payable by the Lessee to the Port Authority with respect to such approximately 150,000 square feet of terminal space that is to be constructed (and even after same is constructed, unless otherwise agreed by the Lessee and the Port Authority in a supplemental agreement to the Lease) as part of the T5i Project-Phase 1, but such terminal space shall nevertheless be subject to whatever other rent or amounts are due in connection with the Terminal 6 Additional Premises (e.g., Terminal 5-i Additional Rental, Terminal 6 Basic Rental) and/or otherwise pursuant to the Lease (e.g., the Port Authority’s proportionate share of concession revenue, derived from consumer services operations at such space, pursuant to Sections 73 through 82 of the Lease) and the same shall be payable in accordance with the terms and conditions of the Lease as herein amended.

(b) Calculation of T5 Facility Rental.

(i) First T5 Facility Rental. For the portion of the term of the letting hereunder commencing on November 1, 2038 to and including October 31, 2039, the Lessee hereby agrees to and shall pay to the Port Authority T5 Facility Rental for the square footage at Terminal 5 (exclusive of the aforesaid approximately 150,000 square feet) at an annual rate calculated in accordance with clauses (x) through (z) in this subparagraph. Such annual rate shall be based on other facility rental rate(s) charged by the Port Authority in a Central Terminal Area terminal at the Airport, as such facility rental rate(s) is increased by the application of the Rental Escalation Index, with the annual adjustments (in the interim period, if any, between the calendar year in which the facility rental rate was last charged by the Port Authority and November 1, 2038) being equal to the product obtained by multiplying such comparison facility rental rate(s) by one hundred percent (100%) of the Percentage Increase (where the Base Period shall be deemed to be October of the calendar year in which the Port Authority last charged the facility rental rate being used in the calculation). In making such annual adjustment, the Adjustment Date shall be each October 1, and the Anniversary Date shall be each November 1 thereafter occurring through November 1, 2038). The first T5 Facility Rental rate that shall be charged to the Lessee, as aforesaid, shall be calculated as follows:

(x) if there are three or more Central Terminal Area terminals at which the Port Authority charged facility rental at any time from and after 2028, then

the first T5 Facility Rental applicable to the Lessee commencing on November 1, 2038 shall be the average of the three highest such facility rental rates charged to other Airport tenants, as increased by the application of the Rental Escalation Index; and

(y) if there are fewer than three Central Terminal Area terminals at which the Port Authority charged facility rental at a time from and after 2028, then the first T5 Facility Rental applicable to the Lessee commencing on November 1, 2038 shall be the average of the two facility rental rates charged to other Airport tenants, as increased by the application of the Rental Escalation Index, and

(z) if there is no Central Terminal Area terminal at which the Port Authority charged facility rental at any time from and after 2028, then the first T5 Facility Rental applicable to the Lessee commencing on November 1, 2038 shall be the highest facility rental rate charged by the Port Authority at the Airport, prior to November 1, 2038, in connection with a Central Terminal Area terminal, as increased by the application of the Rental Escalation Index.

(ii) Annual Adjustments to T5 Facility Rental. Commencing on the First Anniversary Date, i.e., November 1, 2039, and for the period commencing with each Anniversary Date and continuing through to the day preceding the next Anniversary Date for each year thereafter through the balance of the Term, the Lessee shall pay a T5 Facility Rental at the greater rate per annum of (x) the T5 Facility Rental payable immediately prior to the respective Anniversary Date and (y) the product obtained by multiplying such theretofore payable T5 Facility Rental by one hundred percent (100%) of the Percentage Increase for such Anniversary Date.

(c) Minimum T5 Facility Rental. For the avoidance of doubt, the T5 Facility Rental may never be less than the T5 Facility Rental in effect for the preceding November 1 to October 31 period.

(d) Adjustments.

(i) In the event the Rental Escalation Index to be used in computing any adjustment referred to in subparagraph (a) of this Paragraph is not available on the effective date of such adjustment, the Lessee shall continue to pay the T5 Facility Rental at the annual rate then in effect subject to retroactive adjustment at such time as the specified Rental Escalation Index becomes available; provided, however, that the Port Authority may at its option substitute for such Rental Escalation Index the Rental Escalation Index for the latest preceding month then published to constitute the specified Rental Escalation Index. In the event the United States Consumer Price Rental Escalation Index for All Urban Consumers - New York-Northern New Jersey-Long Island, NY-NJ-CT (All Items, unadjusted 1982-84=100) shall hereafter be converted to a different standard reference base or otherwise revised or the United States Department of Labor shall cease to publish the United States Consumer Price Rental Escalation Index for All Urban Consumers - New York-Northern New Jersey-Long Island, NY-NJ-CT (All Items, unadjusted 1982-84=100), then for the purposes hereof there shall be substituted for the Rental Escalation Index such other appropriate Rental Escalation Index or indices properly reflecting changes in the value of current United States money in a manner similar to that established in the Rental Escalation Index used in the latest adjustment as the Port Authority may in its discretion determine.

(ii) If, after an adjustment in T5 Facility Rental shall have been fixed for any period, the Rental Escalation Index used for computing such adjustment shall be changed or adjusted then the rental adjustment for that period shall be recomputed, and from and after notification of the change or adjustment, the Lessee shall make payments based upon the recomputed rental and upon demand shall pay any excess in the T5 Facility Rental due for such period as recomputed, over amounts theretofore actually paid on account of the T5 Facility Rental for such period. If such change or adjustment results in a reduction in the T5 Facility Rental due for any period prior to notification, the Port Authority will credit the Lessee with the difference between the T5 Facility Rental as recomputed for that period and amounts of T5 Facility Rental actually paid.

(iii) If any adjustment in T5 Facility Rental referred to in subparagraph (a) of this Paragraph is effective on a day other than the first day of a calendar month, there shall be payable in advance on the effective date of rental adjustment an installment of T5 Facility Rental equal to 1/12th of the increment of annual T5 Facility Rental as increased, multiplied by a fraction of which the numerator shall be the number of days from the effective date of the rental adjustment to the end of the calendar month in which the rental adjustment was effective and the denominator of which shall be the number of days in that calendar month.

(e) Facility Rentals: Time of Payments.

The T5 Facility Rental hereunder shall be payable by the Lessee in advance in equal monthly installments commencing on November 1, 2038 and on the first day of each and every calendar month thereafter during the balance of the Term. If the commencement date for the payment of T5 Facility Rental herein shall be other than the first day of the month, or if any installment of T5 Facility Rentals payable hereunder shall be for less than a full calendar month, then the rental payment for the portion of the month for which said payment is due shall be the monthly installment prorated on a daily basis using the actual number of days in the said month.

(f) Facility Rentals: Abatement.

In the event that the Lessee shall at any time by the provisions of the Lease become entitled to an abatement of the T5 Facility Rental, said abatement shall be computed as follows (it being understood that there shall be no abatement of T5 Facility Rental under the Lease for any portion of the Premises or for any portion of the Term except as specifically provided herein): for each square foot of interior building space in Terminal 5 the use of which is denied to the Lessee, abatement shall be calculated at the daily rate equal to the per square foot Terminal 5 Facility Rental charge then in effect.

II. Demolition Additional Rental; Terminal 5-i Additional Rental; Continuation of Terminal 6 Basic Rental

(a) The parties acknowledge that the definitions of the Terminal 6 Additional Premises Term and the Additional Premises Expiration Date are being amended pursuant to this Third Supplement so as to extend the duration of the Terminal 6 Additional Premises Term. Accordingly, the Terminal 6 Additional Premises Term is being extended to the Additional Premises Expiration Date, as such term is amended herein, and Terminal 6 Basic Rental shall be due and payable throughout the entire Terminal 6 Additional Premises Term, as extended herein, through

the Additional Premises Expiration Date, as extended herein. The amount of Terminal 6 Basic Rental to be paid shall be calculated and adjusted in accordance with the terms set forth in the Second Supplement as applied through the Additional Premises Expiration Date, as amended and extended herein; provided, however, “Schedule A” referenced in Paragraph 7 to the Second Supplement shall be deleted and substituted with a revised “Schedule A”, attached hereto and incorporated by reference herein.

(b) For the avoidance of doubt, the Terminal 6 Basic Rental may never be less than the minimum amounts set forth in “Schedule A”, attached to this Third Supplement.

(c) For avoidance of doubt, the parties agree that (i) with respect to Demolition Additional Rental, referenced in Paragraph 8 of the Second Supplement, scheduled payments of these rentals shall be due and payable through December 27, 2015 as contemplated by the Second Supplement, and not through the Additional Premises Expiration Date, as such term is amended herein and (ii) with respect to the Terminal 5-i Additional Rental, referenced in Paragraph 8 of the Second Supplement, the parties acknowledge that the outstanding balance due was paid in full by the Lessee, by the delivery to the Port Authority of a lump sum prepayment, as of January 1, 2013. Nothing in the preceding sentence shall release or discharge the Lessee from any liability or obligation arising out of its failure to timely make payments due of the Demolition Additional Rental and the Port Authority reserves all rights available to it pursuant to the Lease and in law or equity arising out of the Lessee’s failure to timely make such payments.

4. T5i Project-Phase 1.

(a) The T5i Project-Phase 1 Work. In addition to the Redevelopment Work set forth in the Lease (which Redevelopment Work, the Port Authority acknowledges the Lessee has completed), the parties agree and acknowledge that on the Premises leased to the Lessee under the Lease and the First Supplement prior to the execution of the Second Supplement and, in addition, on a portion of the Terminal 6 Additional Premises constituting the T6 Phase 1 Redevelopment Area, the Lessee shall undertake a project to design and construct a renovation, modification and expansion of the Terminal, the construction of which is more specifically described in Paragraph 8 hereof (the “**T5i Project-Phase 1**”), of which the details are set forth in the T5i Project-Phase 1 Basis of Design.

(b) The Lessee shall invest no less than One Hundred Sixty Seven Million Dollars (\$167,000,000.00) to design and complete the Terminal expansion, including without limitation the FIS facility, as part of the T5i Project-Phase 1 Work in accordance with the T5i Project Phase I Basis of Design, and shall invest no less than Eight Million Dollars (\$8,000,000.00) to complete the T5-T7 Ramp Improvement Work (defined herein). The aforesaid improvements are to be completed in accordance with the T5i Project-Phase 1 Basis of Design.

(c) The Lessee shall be solely responsible for compliance with all applicable governmental laws, ordinances, enactments, resolutions, rules and regulations and orders including, but not limited to, the filing of all documents required by, and compliance with, the Port Authority’s TCAP relating to the T5i Project-Phase 1 and the Port Authority’s policy on sustainable design as set forth in the sustainable design guidelines promulgated by the Port Authority Engineering Department from time to time.

(d) All terms, conditions and provisions of the Lease relating to the Premises shall apply as well to the enclosed and unenclosed areas contemplated to be constructed as part of the T5i Project-Phase 1 including, without limitation, the provisions of the Lease relating to rentals, maintenance and repair, utilities, concessions, insurance, liability and environmental matters, unless expressly provided otherwise in this Third Supplement (including as provided in Paragraph 3(I)(a) hereof).

5. T5i Project –Phase 2 and T5i Project- Phase 3.

(a) The Lessee shall have the right, at its sole option subject to the terms of this Third Supplement, to further redevelop the Terminal 6 Additional Premises during the Terminal 6 Additional Premises Term, to accommodate the installation by the Lessee of three (3) additional Group III international gates that will have the ability to accommodate one (1) Design Group V aircraft (which redevelopment shall be referred to herein as the “ **T5i Project-Phase 2** ”). Thereafter, the Lessee shall have the right, at its sole option but subject to the terms of this Third Supplement, to install four (4) additional international gates located on the Terminal 6 Additional Premises (which redevelopment shall be referred to herein as the “ **T5i Project-Phase 3** ”). Each such redevelopment shall be the subject of one or more separate and different agreements between the Port Authority and the Lessee. The parties intend that redevelopment of the Premises contemplated for T5i Project-Phase 2 and T5i Project-Phase 3 shall be consistent with Appendix B of Exhibit 94.1 to the Lease, entitled “Appendix B: Revised Concept Master Plan” and subject, in all events, to approval of the Board of Commissioners of the Port Authority. For the avoidance of doubt, and notwithstanding anything herein that may be implied to the contrary, the parties acknowledge that even if the Lessee exercises its right to proceed with the T5i Project-Phase 2, the Lessee shall not be obligated to proceed with the T5i Project-Phase 3 and, similarly, in the event the Port Authority approves the undertaking by the Lessee of T5i Project-Phase 2, the Port Authority shall not be obligated to approve the undertaking by the Lessee of T5i Project-Phase 3. However, the Port Authority shall be entitled to certain recapture rights, described below in subparagraphs (b)(i)-(b)(v), in the event the Lessee elects not to exercise its rights to proceed with the T5i Project-Phase 2 and, after so proceeding, in the event the Lessee does not complete the full-buildout contemplated by T5i Project-Phase 2 within a period of ten (10) years from and after the occurrence of the T5i Project-Phase 1 DBO (the “ **Redevelopment Outside Date** ”).

(b) Notwithstanding the foregoing, nothing appearing in this Third Supplement shall be construed to mean or imply that the Port Authority has agreed, or shall be obligated to agree, to the redevelopment described in paragraph (a), above, in whole or in part, or to act upon a proposal for such redevelopment, including without limitation, submission of such proposal to the Port Authority’s Board of Commissioners. In the event that the Lessee seeks to undertake T5i Project-Phase 2 and, thereafter, T5i Project-Phase 3, during the Terminal 6 Additional Premises Term, the Lessee and the Port Authority shall proceed to enter into negotiations regarding the terms of a mutually acceptable agreement or agreements with respect to such undertaking or undertakings, as the case may be.

(i) The Port Authority may proceed to offer the right to redevelop the Terminal 6 Additional Premises to any third party upon the occurrence of any of the following events:

(x) the Lessee does not seek to redevelop the Terminal 6 Additional Premises by completing the T5i Project-Phase 2 (irrespective of whether or not the Lessee seeks to undertake the T5i Project-Phase 3), in accordance with Appendix B of Exhibit 94 to the Lease and the provisions of this Paragraph 5, by the Redevelopment Outside Date (defined herein), or

(y) the Lessee and Port Authority are unable to negotiate and execute a mutually acceptable agreement governing T5i Project-Phase 2 (irrespective of whether or not the Lessee seeks to undertake the T5i Project-Phase 3) by the last day of the eighty fourth (84th) calendar month following the calendar month in which the T5i Project-Phase 1 DBO occurs.

The portion of the Terminal 6 Additional Premises that the Port Authority is permitted to recapture pursuant to this Paragraph (b) is referred to herein as the “ **Non-Buildout Take Back Parcel** ”, but the parties acknowledge that the exact dimensions of such parcel cannot be known as of the Effective Date.

(ii) (x) With respect to subparagraph (b)(i)(x), above, in this Paragraph, if the Port Authority does not receive written notice from the Lessee on or before the expiration of seventy-eight (78) months (starting from the first day of the calendar month in which the T5i Project-Phase 1 DBO occurs) that it is committed to proceed with redevelopment as described in clause (i)(y), then the Lessee’s right to so redevelop shall be and be deemed expired and the Lessee shall be deemed to have elected not to proceed with further redevelopment of the Premises.

(y) In the event the condition in subparagraph (i)(x), above, is satisfied and the parties are able to negotiate and execute a mutually acceptable agreement with respect to such redevelopment by the date specified in subparagraph (i)(y), above, then the Lessee shall diligently undertake and complete such redevelopment. If the Lessee has not completed the full-buildout contemplated by T5i Project-Phase 2, as memorialized in the executed, mutually acceptable agreement described in subparagraph (i)(y) with respect to T5i Project-Phase 2, by the Redevelopment Outside Date for T5i Project-Phase 2, then the Port Authority shall have the right, at any time from and after such Redevelopment Outside Date, and without cause, to terminate the letting of the Non-Buildout Take Back Parcel, in whole or in part. For the avoidance of doubt and notwithstanding anything to the contrary stated herein, the full buildout of T5i Project-Phase 2 must be completed by the tenth (10th) anniversary of the T5i Project-Phase 1 DBO, failing which the Port Authority shall have the right to terminate the letting of the Non-Buildout Take Back Parcel. The Port Authority shall notify the Lessee of its intent to terminate the letting by sending written notice of the same (“ **Non-Buildout Termination Notice** ”), specifying the effective date of termination of the letting and identifying the portion of the Non-Buildout Take Back Parcel which shall be the subject of the termination of the letting.

(iii) Within one hundred and eighty (180) calendar days after the date of the Non-Buildout Termination Notice, the Lessee shall be entitled to exercise a right of first refusal to complete the redevelopment that was to have been completed by the applicable Redevelopment Outside Date. Lessee must exercise its right of first refusal by sending written notice (“ **Right of First Refusal Notice** ”) to the Port Authority stating its exercise

thereof and such notice also shall include at least (x) a covenant by the Lessee to complete the applicable T5i Project-Phase 2 and (y) a covenant to enter into a written agreement with the Port Authority within one hundred eighty (180) calendar days of the date of the Non-Buildout Termination Notice, as timely sent, which agreement would contain the material terms of the arrangement for the Lessee to complete T5i Project-Phase 2, including, without limitation, (A) a final completion date for such redevelopment, (B) the minimum capital investment to be made by the Lessee to complete such redevelopment, and (C) the engineering and architectural specifications, acceptable to the Port Authority as part of its TCAP, to complete such redevelopment; provided, however, the Right of First Refusal Notice shall be void and of no force or effect, and the Lessee's right of first refusal shall expire and cease to exist, in the event the Port Authority and the Lessee have not entered into said written agreement within one hundred eighty (180) calendar days of the date of the Non-Buildout Termination Notice, inclusive of such date. In the event the Lessee's right of first refusal expires as aforesaid, the Port Authority may, but shall not be obligated to, proceed to terminate the letting of the Non-Buildout Take Back Parcel upon written notice to the Lessee.

(iv) In the event the Port Authority terminates the letting of the Non-Buildout Take Back Parcel as contemplated by this Paragraph 5(b), the Port Authority shall do so in a manner that enables the Lessee to continue to use the Premises, including each of the T5i Project-Phase 1 functional elements as described in Paragraph 8(a) below, for the purposes set forth in Section 5 of the Lease, entitled "*Use of Premises*", pursuant to Section 48 of the Lease, entitled "*Quiet Enjoyment*".

(v) Time shall be of the essence with respect to the deadlines set forth above in subparagraphs (i), (ii) and (iii), above.

(vi) The agreed-upon date for the Lessee to complete the full-buildout contemplated by T5i Project-Phase 2 shall be specified in the written agreement between the Lessee and the Port Authority described in subparagraph (b)(i)(y) above, it being understood that the Redevelopment Outside Date for the completion of T5i Project-Phase 2 shall be no later than as stated, above, i.e., the tenth (10th) anniversary of the T5i Project-Phase 1 DBO.

(vii) From and after the effective date of the termination of the letting of the area identified on the Non-Buildout Termination Notice, and provided the Lessee has fully vacated the same, the Lessee shall become entitled to an abatement of the Terminal 6 Basic Rental set forth in Paragraph 6 of the Second Supplement (as adjusted in accordance with Paragraph 7 of the Second Supplement, and as further adjusted pursuant to this Third Supplement) applicable to such area, calculated at the daily rate equal to the per square foot Terminal 6 Basic Rental rate in effect on the day preceding the effective termination date. The right to abatement shall be subject to paragraph (d), below, of this Paragraph.

(c) In the event the Port Authority terminates the letting of the Non-Buildout Take Back Parcel as contemplated by Paragraph 5(b), above, the following shall apply as of the effective date of such termination:

(1) Effective as of the effective termination date of the letting of the Non-Buildout Take Back Parcel, the Lessee shall and be deemed to have granted, bargained, sold, surrendered and yielded up and by these presents have granted, bargained, sold, surrendered and yielded up unto the Port Authority, its successors and assigns, forever, its rights in the Non-Buildout Take Back Parcel and the term of years with respect thereto under the Lease as amended herein yet to come and shall and be deemed to have given, granted, surrendered and by these presents does give, grant and surrender to the Port Authority, its successors and assigns, all the rights, rights of renewal, licenses, privileges and options of the Lessee granted by the Lease as amended herein with respect to the Non-Buildout Take Back Parcel, all to the intent and purpose that the said Terminal 6 Additional Premises Term under the Lease as amended herein and the said rights of renewal, licenses, privileges and options may be wholly merged, extinguished and determined on the Non-Buildout Take Back Parcel surrender date (“**Non-Buildout Take Back Parcel Surrender Date**”), with the same force and effect as if the said Terminal 6 Additional Premises Term were in and by the provisions of the Lease as amended herein originally fixed to expire on the Non-Buildout Take Back Parcel Surrender Date, but the Lease and the letting thereunder as amended herein shall continue in full force and effect as to the remainder of the Premises under the Lease as amended herein and in accordance with all the terms and provisions thereof.

(2) The Lessee hereby covenants on behalf of itself, its successors and assigns that (x) it has not done or suffered and will not do or suffer anything whereby the Non-Buildout Take Back Parcel or the Lessee’s leasehold therein, has been or shall be encumbered as of the Non-Buildout Take Back Parcel Surrender Date in any way whatsoever; (y) the Lessee is and will remain until the Non-Buildout Take Back Parcel Surrender Date the sole and absolute owner of the leasehold estate in the Non-Buildout Take Back Parcel and of the rights, rights of renewal, licenses, privileges and options granted by the Lease, as amended herein, with respect thereto and that the same are and will remain until the Non-Buildout Take Back Parcel Surrender Date free and clear of all liens and encumbrances of whatsoever nature; and (z) the Lessee has full right and power to make this agreement.

(3) All promises, covenants, agreements and obligations of the Lessee with respect to the Non-Buildout Take Back Parcel which under the provisions thereof would have matured upon the date originally fixed for the expiration of such portion of the Premises, or upon the termination of the letting of the Premises prior to the said date, or within a stated period after expiration or termination shall, notwithstanding such provisions, mature upon the Non-Buildout Take Back Parcel Surrender Date and shall survive the delivery of the Non-Buildout Termination Notice by the Port Authority to the Lessee.

(4) As of the Non-Buildout Take Back Parcel Surrender Date, the Lessee shall and shall have released and discharged and does by these presents release and discharge the Port Authority from any and all obligations on the part of the Port Authority to be performed under the Lease as amended herein with respect to Non-Buildout Take Back Parcel. The Port Authority does by these presents release and discharge the Lessee from any and all obligations on the part of the Lessee to be

performed under the Lease as amended herein with respect to the Non-Buildout Take Back Parcel for that portion of the Term subsequent to the Non-Buildout Take Back Parcel Surrender Date; it being understood that nothing herein contained shall release, relieve or discharge the Lessee from any liability for rentals or for other charges that may be due or become due to the Port Authority for any period or periods prior to the Non-Buildout Take Back Parcel Surrender Date, or for breach of any other obligation on the Lessee's part to be performed under the Lease as amended herein for or during such period or periods or maturing pursuant to the foregoing paragraph, nor shall anything herein be deemed to release the Lessee from any liability for rentals or other charges that may be due or become due to the Port Authority for any other portion of the Premises or for breach of any other obligation on the Lessee's part to be performed under the Lease as amended herein.

(5) The Lessee hereby agrees to terminate its occupancy of the Non-Buildout Take Back Parcel and to deliver actual, physical possession of the Non-Buildout Take Back Parcel to the Port Authority, on or before the Non-Buildout Take Back Parcel Surrender Date, in the condition required by the Lease upon surrender. The Lessee further agrees that it shall remove all of the Lessee's personal property from the Non-Buildout Take Back Parcel prior to the Non-Buildout Take Back Parcel Surrender Date, and all the terms and conditions of Section 29 of the Lease with respect to termination of the letting shall apply to any of the Lessee's personal property not so removed.

(6) The Lessee hereby acknowledges that each and every term, provision and condition of the Lease as amended herein shall continue to apply to the Premises (including without limitation the Terminal 6 Additional Premises) remaining after the termination of Non-Buildout Take Back Parcel.

(7) If Parcel TH1 is contained within the boundaries of the Non-Buildout Take Back Parcel (which assumes the Port Authority did not previously recapture Parcel TH1 and pay to the Lessee the pro rata portion of the Lessee's cost to initially construct the hardstand located on Parcel TH1 as described in Paragraph 7(c) of this Agreement), then the Port Authority shall be obligated to pay to the Lessee such pro rata amount as calculated in said Paragraph 7(c).

(d) Notwithstanding anything to the contrary stated in this Paragraph or in Paragraph 7, if for any reason during the 240 month period after the T5i Project-Phase 1 DBO there is a re-transfer of Parcel TH1 from the Port Authority to the Lessee, i.e., if Parcel TH1 becomes re-included as part of the Premises, then as of the effective date of such re-transfer (i) the Port Authority's obligation to pay any unpaid balance of any portion of the Lessee's cost to initially construct the hardstand located on Parcel TH1 under this Paragraph or under Paragraph 7 shall terminate, and (ii) the Lessee shall be obligated to reimburse the Port Authority for the amount paid to the Lessee for its cost to initially construct the hardstand located on Parcel TH1, except the amount to be reimbursed to the Port Authority shall represent only the pro rata cost (calculated using the same straight-line basis depreciation formula set forth in Paragraph 7) for the period from the effective date of such re-transfer through the balance of the 20-year amortization period, i.e., the cost multiplied by a fraction, the numerator of which shall be 240 minus the number of whole calendar months that have elapsed from the T5i Project-Phase 1 DBO to the effective date of re-transfer and the

denominator of which shall be 240. Additionally, any abatement of Terminal 6 Basic Rental shall cease as of the effective date of any such re-transfer.

6. Use of the Terminal 6 Additional Premises.

(a) Notwithstanding the provisions of Paragraph 3 of the Second Supplement, entitled “ *Use of the Terminal 6 Additional Premises* ”, the Lessee shall use the Terminal 6 Additional Premises solely for the following purposes: (i) the T6 Non-Phase 1 Redevelopment Area shall continue to be used solely for the purpose of maintaining, de-icing and parking aircraft, loading and unloading passengers and cargo, and parking/storing, fueling and servicing ground service equipment on the paved areas of the Terminal 6 Additional Premises, consistent with said Paragraph 3; and (ii) the T6 Phase 1 Redevelopment Area shall be used for the same purposes as described in clause (i), above, as well as for the completion of the T5i Project-Phase 1 and, after the T5i Project DBO, the T6 Phase 1 Redevelopment Area shall be used for the purposes contemplated by the T5i Project-Phase 1, subject to any recapture rights exercised by the Port Authority pursuant to the Lease, as amended.

(b) With respect specifically to the one Group V aircraft hardstand parking position, together with associated ramp area, to be used on a shared basis with a Terminal 7 aircraft operator subject to the Lessee’s priority of use as further described in Paragraph 8(a)(vi), below, the Lessee agrees to enter into a mutually beneficial written agreement with at least one Terminal 7 aircraft operator for use of the aforesaid aircraft hardstand parking position and related ramp area. The Lessee shall use its best efforts to enter into the mutually beneficial written agreement within one hundred eighty (180) calendar days of the T5i Project-Phase 1 DBO, the effectiveness of which written agreement(s) shall be subject to the prior written consent of the Port Authority. The failure to use its best efforts to enter into the mutually beneficial, Port Authority-approved agreement(s) as described in the preceding sentence shall be deemed a material default of this Third Supplement and, accordingly, the Lease. The Port Authority shall make the determination as to whether the Lessee has used its best efforts, as aforesaid, acting in a non-arbitrary and non-capricious manner. The area which is the subject of such shared use is identified on Exhibit TH as Parcel HS.

7. Right of the Port Authority to Terminate a Portion of the Premises - Parcel TH Hardstand Areas.

(a) Reference is made to Paragraph 14 of the Second Supplement, pursuant to which the Port Authority was granted a right to terminate a portion of the Terminal 6 Additional Premises on a permanent basis, at any time after the Demolition Work Completion Date on ninety (90) days’ prior notice to the Lessee. Such portion of the Terminal 6 Additional Premises was identified as Parcel T. Attached hereto as Exhibit TH and hereby made a part hereof is a sketch approximately identifying two portions of Parcel T, as follows: (i) an area constituting the exclusive hardstand position to be constructed by the Lessee as part of the T5i Project-Phase 1 (“ **Parcel TH1** ”) and (ii) an additional area that may be needed to enable the construction of an additional hardstand position (“ **Parcel TH2** ”), it being agreed that, subject to the Lessee’s rights to use of the Premises as set forth in Section 5(b)(iv) above, the exact dimension of Parcel TH2 shall be determined by the Port Authority, in its sole and absolute discretion, as being an area that is adequate to enable the construction of an additional hardstand position (Parcel TH1 and Parcel TH2 together collectively called the “ **Parcel TH Hardstand Areas** ”).

The parties acknowledge that if Parcel TH1 is used for Group V aircraft, Taxiway W would need to be widened and this in turn would require the Port Authority to adjust the centerline of Taxiway W, the lease line separating the T6 Additional Premises and the Terminal 7 leasehold, and existing easements related thereto, in order to assure that the Lessee has access to Parcel TH1.

(b) Without limiting the generality of Paragraph 14(a) of the Second Supplement, or Paragraph 2(c)(3) of the Second Supplement, said Paragraph 14 shall be deemed modified as of the Effective Date as follows:

(i) During the period between the Effective Date hereof and the day preceding the third (3rd) anniversary of the T5i Project-Phase 1 DBO, the Port Authority shall not exercise its termination rights under Paragraph 14 of the Second Supplement. As of the third (3rd) anniversary of the T5i Project-Phase 1 DBO, the Port Authority's termination rights with respect to Parcel T shall be in full force and effect and shall be a right to terminate in whole or in part the portions of Parcel T comprised of (x) Parcel TH1 and (y) Parcel TH2. The last sentence of Paragraph 14(a) of the Second Supplement shall be revised to acknowledge that the Port Authority's said termination rights shall be for the sole purpose of (1) accommodating aircraft operated by a Terminal 7 aircraft operator or (2) accommodating aircraft displaced from other locations at the Airport as a result of a transfer of control of Terminal 7 to the Port Authority, an airline or a third party.

(ii) The termination of any portion of Parcel T shall be effected in accordance with the provisions of Paragraph 14 such that the Parcel T Termination Notice shall instead apply to the portion(s) of Parcel T as to which the letting is being terminated and the notice shall identify the areas to be so terminated, and the Parcel T Surrender Date shall instead apply to the surrender date of the portion(s) of Parcel T as to which the letting is being terminated and shall identify the respective surrender dates for the area(s) to be so terminated. The remaining provisions of Paragraph 14(a) shall remain in full force and effect and shall apply in the same way to a partial termination as to a whole termination, e.g., such provisions shall apply as to the portion of Parcel T as to which the letting is being terminated as the same would apply if the letting of the whole of Parcel T was being terminated. The Lessee hereby acknowledges that each and every term, provision and condition of the Lease as amended herein shall continue to apply to the Premises (including without limitation the Terminal 6 Additional Premises) remaining after the termination of the relevant portion(s) of Parcel T.

(iii) Nothing in this Third Supplement or the exercise by the Port Authority of its rights to recapture a portion of Parcel T as contemplated herein shall constitute a modification of Paragraph 2(c)(3) of the Second Supplement, referencing Easement Area C, it being understood that Easement Area C would come into existence upon the termination of the letting of the Parcel TH Hardstand Areas. The parties acknowledge that such easement is necessary so that a Group V aircraft can access Parcel TH1.

(iv) In the event the Port Authority and the Lessee hereinafter enter into written agreements to modify the Lease in order to implement T5i Project-Phase 2, and, if agreed upon, T5i Project-Phase 3, such agreement(s) shall provide for the re-inclusion, as part of the Premises under the Lease, of the Parcel TH Hardstand Areas, in connection with T5i Project-Phase 2 or T5i Project-Phase 3, as applicable, unless the parties agree otherwise.

The terms and conditions of such re-inclusion shall be memorialized in said written agreement(s), as applicable.

(v) From and after the day immediately following the surrender date of any portion of Parcel T permitted to be terminated, as applicable, in accordance with Paragraph 9 of the Second Supplement, and providing the Lessee has fully vacated the same, the Lessee shall be entitled to an abatement on a per square foot basis of the Terminal 6 Basic Rental set forth in Paragraph 6 of the Second Supplement (as adjusted in accordance with Paragraph 7 of the Second Supplement) for the portion of Parcel T so terminated. The right to abatement shall be subject to paragraph (c)(vii) l, below, of this Paragraph.

(vi) The Lessee's obligations with respect to a Parcel T Termination Baseline, as defined in the Second Supplement, are set forth in subparagraph (s)(3) of Paragraph 12 of the Second Supplement, entitled "Environmental Obligations". The Parcel T Termination Baseline was completed by Lessee, was entitled "Parcel T Exit Baseline Environmental Site Assessment" and was dated February 2012. No Remediation has commenced or been pursued by Lessee at Parcel T as of the Effective Date. Lessee's obligation to commence and complete such Remediation shall be done in accordance with the Second Supplement including, but not limited to, completion in accordance with subparagraph (t) of Paragraph 12 of the Second Supplement by the Additional Premises Expiration Date as such term was defined in the Second Supplement (December 27, 2015), without regard to modifications to its definition made in this Third Supplement, except only for such ongoing monitoring for natural attenuation, and any other remediation work expressly permitted to take place after December 27, 2015, as is described in an environmental Remediation action work plan approved in writing by the Port Authority and authorized by the DEC. All obligations which are those of the Lessee under the Lease would also include responsibility for obtaining a NFA with regard to any spill at or in such area and for all costs associated with any ongoing and/or long-term monitoring, reporting and closure activities both before and after December 15, 2015. The obtaining of a NFA status would include the completion of all necessary remedial actions, monitoring and reporting necessary to obtain such NFA status.

(c) In the event that the Port Authority exercises its rights under this Paragraph to terminate the letting of the Parcel TH Hardstand Areas (or relevant part thereof), the Port Authority shall pay the Lessee a pro rata share of the Lessee's cost to initially construct the hardstand, located on the Parcel TH Hardstand Areas, as part of T5i Project-Phase 1. The cost and the pro rata share thereof shall be ascertained as stated below in this subparagraph (c); provided, however, that tender of payment of said pro-rated cost by the Port Authority to the Lessee shall not be prerequisite to the exercise of the right of termination under this Paragraph. On the payment by the Port Authority of said pro-rated cost, all fixtures, equipment and improvements furnished by the Lessee in the Parcel TH Hardstand Areas and all interest of the Lessee therein which have not already become the property of the Port Authority shall be and become the property of the Port Authority and the Lessee promptly shall execute any and all instruments necessary to transfer title to any such interest; provided, further, however, that the Port Authority may by notice relinquish its right to any such fixtures, equipment or improvements.

(i) The sum of the following items of actual cost incurred by the Lessee for such initial construction of the Parcel TH Hardstand Area hardstand, constructed as part of T5i Project-Phase 1, to the extent that such sum is permitted by generally accepted accounting

principles consistently applied and, in addition, to the extent such sum does not exceed the amount of Eight Million Dollars and No Cents (\$8,000,000.00) in the aggregate, shall constitute the "cost" under this Paragraph and under subdivisions (ii), (iii), (iv), (v), and (vi) hereof:

- (1) Direct labor and material costs;
- (2) Contract costs for purchases and installation excluding those of the types mentioned in the following subdivision (3);
- (3) Engineering, architectural, planning, designing, financing, interest, insurance, and other overhead or carrying charges which are due for a period ending not later than the date of completion of installation of any such initial equipment, fixtures or improvements for which they are incurred, and not to exceed fifteen (15) % of the total of the amounts covered by subdivisions (1) and (2) above.

For the avoidance of doubt, the calculation of the aggregate amount stated above is subject to the application of subdivisions (ii), (iii), (iv), (v) and (vi), below.

(ii) A statement of the cost (not to exceed the above-stated \$8,000,000.00 amount) detailing all the foregoing, including copies of invoices and contracts and certified by a responsible financial officer of the Lessee, shall be delivered by the Lessee to the Port Authority not later than ninety (90) days after the completion of all such initial improvements, and the Lessee shall permit the Port Authority, by its agents, employees and representatives, at all reasonable times prior to a final settlement or determination of cost, to examine and audit the records and books of account of the Lessee within the Port of New York District during such time; the Lessee agrees to keep such records and books of account within the Port of New York District during such time.

(iii) If the Lessee includes in cost any items as having been incurred but which, in the opinion of the Port Authority, not acting in an arbitrary or capricious manner, if so incurred is not an item properly chargeable to cost under sound accounting principles, then the Port Authority within ninety (90) days after receipt of the said statement of cost as mentioned in subparagraph (ii) above, shall give written notice to the Lessee stating its objection to any such item and the grounds therefor. The Port Authority shall advise the Lessee in writing of the total approved cost determined under this subparagraph (iii) within ninety (90) days after such determination is finalized by the Port Authority, subject to audit.

(iv) The proration of cost as referred to in this Paragraph shall be ascertained by multiplying the cost by a fraction, the numerator of which shall be 240 minus the number of whole calendar months that have elapsed since the T5i Project- Phase 1 DBO (i.e., elapsed up until the Parcel T Surrender Date) and the denominator of which shall be 240 (representing a 20-year amortization period from and after the T5i Project- Phase 1 DBO); provided, however, in all events, in calculating the amount that the Port Authority shall be obligated to pay to the Lessee under said Paragraph, the amount to be paid shall not exceed the amount of the Lessee's cost (as calculated in accordance with subparagraph (i) of this subparagraph) less annual depreciation thereof (on a straight-line basis over the term of the letting of the Parcel TH Hardstand Areas) for the period that has elapsed from the T5i Project- Phase 1

DBO to the effective surrender date of the Parcel TH Hardstand Areas (Parcel T Surrender Date), as carried on the Lessee's books in accordance with generally accepted accounting principles consistently applied.

(v) In ascertaining the amount that the Port Authority shall be obligated to pay to the Lessee under this Paragraph, the cost computed as heretofore stated in this subparagraph shall be diminished by the amount that any part of the components of cost as stated in subdivisions (1), (2), and (3) of subparagraph (i) above are secured by liens, mortgages, other encumbrances or conditional bills of sale on such fixtures and improvements, and any other amounts whatsoever due under the Lease from the Lessee to the Port Authority. In no event whatsoever shall cost, as defined and computed in accordance with this Paragraph include any expenses, outlays or charges whatsoever by or for the account of the Lessee for or in connection with any fixtures or the making of any improvement mentioned in this Paragraph unless said fixtures and/or improvements are actually and completely installed in and/or made to the Premises.

(vi) Notwithstanding anything to the contrary stated or implied elsewhere in the Lease, the Port Authority's obligation to pay the Lessee for costs associated with its hardstand improvements as aforesaid shall be subject to satisfaction of all of the following conditions precedent: (x) the Lessee shall have vacated and surrendered possession of the Parcel TH Hardstand Areas to the Port Authority in accordance with the terms, covenants and conditions of this Third Supplement, (y) the Lessee is not then in default under the Lease beyond any applicable notice and grace period stated in the Lease, and (z) the Lessee shall have theretofore provided the Port Authority with the statement of cost, and any other substantiating documentation, described in subparagraph (c)(ii), above, of this Paragraph necessary in the opinion of the Port Authority to ascertain the amount of cost which is the subject of the payment.

(vii) If for any reason during the 240 month period after the T5i Project-Phase 1 DBO there is a re-transfer of Parcel TH1 from the Port Authority to the Lessee, i.e., if Parcel TH1 becomes re-included as part of the Premises, then as of the effective date of such re-transfer (x) the Port Authority's obligation to pay any unpaid balance of any portion of the Lessee's cost to initially construct the hardstand located on Parcel TH1 under this Paragraph 7 shall terminate, and (y) the Lessee shall be obligated to reimburse the Port Authority for the amount paid to the Lessee for its cost to initially construct the hardstand located on Parcel TH1, except the amount to be reimbursed to the Port Authority shall represent only the pro rata cost (calculated using the same straight-line basis depreciation formula set forth above in this Paragraph 7) for the period from the effective date of such re-transfer through the balance of the 20-year amortization period, i.e., the cost multiplied by a fraction, the numerator of which shall be 240 minus the number of whole calendar months that have elapsed from the T5i Project-Phase 1 DBO to the effective date of re-transfer and the denominator of which shall be 240. Additionally, any abatement of Terminal 6 Basic Rental shall cease as of the effective date of any such re-transfer.

8. Construction of the T5i Project-Phase 1.

(a) T5i Project-Phase 1 Components.

T5i Project-Phase 1 shall include, without limitation, the elements identified below:

(i) construction of an extension to Terminal 5 of approximately 150,000 square feet on three levels, to create an international arrivals hall, inclusive of the following:

- (1) a customs and border protection facility designed to accommodate up to 1200 passengers per hour and associated customs and border protection support spaces;
- (2) construction of two (2) new international baggage claim units;
- (3) addition of a passenger security checkpoint at a location in the new expansion area, with new vertical access from the ground level;
- (4) construction of new makeup areas and additional baggage re-check operations space; and
- (5) operational space

(ii) three new enplaning and deplaning aircraft building gate positions (together with all associated preconditioned air and ground power support and hydrant fuel and related areas and facilities) capable of handling either international or domestic flights;

(iii) all appropriate and necessary work for the construction of Concession Areas (as defined in the Lease) consisting of a minimum of 8,000 total square feet of floor space to be made available for consumer services as more fully described and set forth in Sections 73 through 81 to the Lease including, without limitation, the construction and installation of utility lines (which are to serve the Concession Areas) to the perimeter of the individual concession premises;

(iv) conversion of three (3) domestic enplaning and deplaning aircraft building gate positions to three (3) enplaning and deplaning aircraft building gate positions capable of handling either international or domestic flights, each of which have hydrant access to the Airport's underground fuel system;

(v) modification and rehabilitation of certain sections of the ramp area located between Terminal 5 and Terminal 7 so as to construct three (3) Group III aircraft hardstand parking positions for the Lessee's operations at the Airport, served by bus, and two (2) Group V aircraft hardstand parking positions, it being understood that (x) one Group V aircraft hardstand parking position, located on Parcel TH1, together with associated ramp area will be provided to an aircraft operator that is a tenant or occupant of Terminal 7, for exclusive use by such aircraft operator, and (y) the other Group V aircraft hardstand parking position, located on Parcel HS, together with associated ramp area, will be used on a shared basis by the Lessee and an aircraft operator that is a tenant or occupant of Terminal 7 (more particularly addressed in Paragraph 6(b) herein); provided, however, that with respect to such shared use, the aircraft operations of the Lessee shall have priority over the operations of such Terminal 7 aircraft operator but subject nevertheless to other terms and conditions of the Lease including, without limitation, Section 42, entitled "*Requesting Airlines at the Airport*";

and provided, further, however, that in the event the Port Authority exercises its right to terminate the letting of the Parcel TH Hardstand Areas pursuant to Paragraph 7 of this Third Supplement, then (1) the Lessee shall have no obligation to comply with clause (x), above, and (2) the Lessee's obligations with regard to shared use of the parking position described in clause (y) shall terminate and the Lessee shall be entitled to exclusive use of such parking position. Any use of such parking position by such Terminal 7 aircraft operator(s) as specified in the foregoing clauses (x) and (y) shall be subject to a written agreement or agreements between the Lessee and such aircraft operator(s), as approved in writing in advance by the Port Authority. For avoidance of doubt, such agreement(s), shall allow, among other things, for the Lessee to collect a reasonable fee for the use of such parking positions by such aircraft operator(s). The work described in this subparagraph (v) shall be referred to herein as the "**T5-T7 Ramp Improvement Work**". The T5-T7 Ramp Improvement Work shall include only work performed on the Terminal 6 Additional Premises;

(vi) modification and extension of the existing terminal building to accommodate the expected increase in passenger traffic and new operational needs, including:

- (1) passenger holdrooms supporting the three existing aircraft building gate positions;
- (2) baggage make-up areas;
- (3) baggage handling system; and
- (4) operational space.

(vii) all construction shall be with a design that enables growth in multiple phases in the future (see references to T5i Project-Phase 2 and T5i Project-Phase 3 herein) in order to increase gate, ticketing and processing capacity for the Lessee's operations at the Terminal and arrivals and departure roadway capacities to maintain IATA level of service "C" for all Terminal-related functions; and

(viii) in connection with and in addition to (but not as a part of) the T5i Project-Phase 1, the Lessee shall, in accordance with the provisions of Section 73 of the Lease, entitled "Consumer Services", submit for Port Authority approval, and thereafter implement, a new comprehensive consumer services plan relating to the new Concession Areas referred to in Paragraph 8(a)(1), above. The foregoing shall not relieve the Lessee from its obligation under said Section 73 to submit to the Port Authority for its written approval at annual intervals a revised comprehensive consumer services covering the entire Premises.

(b) Comprehensive Plan.

(1) *Comprehensive Plan*.

The Lessee has submitted to the Port Authority for review a design document entitled "JetBlue Airways JFK T5i Basis of Design Rev 4" relating to the T5i Project-Phase 1, a copy of the final version, as approved by the Port Authority, is attached hereto, hereby made a part hereof and marked Exhibit GG (the "**T5i Project-Phase 1 Basis of Design**"), and has submitted, or shall

submit, for the Port Authority's review further plans and specifications based on the approved T5i Project-Phase 1 Basis of Design (such plans and specifications, upon approval by the Port Authority, together with the approved T5i Project-Phase 1 Basis of Design, the "**Comprehensive Plan**"). The work of designing and constructing the T5i Project-Phase 1, as set forth in the Comprehensive Plan, shall be referred to herein as the "**Construction Work**".

(2) *Contents of Comprehensive Plan .*

The Comprehensive Plan shall include the construction of the T5i Project-Phase 1, and shall include, without limitation, the following:

- (i) Three (3) new aircraft building gate positions, together with all associated and related areas and facilities, including without limitation passenger boarding gate lounges;
- (ii) Five (5) hardstand positions, inclusive of the shared hardstand position on Parcel HS and the exclusive hardstand position on Parcel TH1;
- (iii) All appropriate work for the construction of utility and mechanical equipment rooms and spaces and crawl spaces;
- (iv) All appropriate preparatory work for the construction of new Concession Areas, including without limitation the installation of utility lines to the perimeter of the new Concession Areas;
- (v) Construction, installation and tie-in of all appropriate utility lines, pipes, mains, drains, cables, manholes, wires, conduits and other facilities required in connection with or relating to the mechanical, water, electrical, storm sewer, sanitary sewer, communications, security, fire alarm, fire protection, gas, aircraft fueling and other systems or facilities including all necessary relocations including, but not limited to, all necessary pipes, valves, materials and other equipment and accessories necessary to the use and operation of the heating, cooling, electrical, water, communications and other utility systems which are to serve the Premises, all as set forth in the T5i Project-Phase 1 Basis of Design with respect to the T5i Project-Phase 1, as well as any of the foregoing that become necessary with respect to other portions of the Premises in consequence of the construction of the T5i Project-Phase 1;
- (vi) The construction and installation of additions and modifications to the underground fuel distribution system, including but not limited to underground pipelines, cathodic protection, emergency fuel shutoffs, fuel mains and stubs necessary or required to tie into the distribution portion of the Underground Fuel System at the Airport to accommodate and serve the new and relocated/reconfigured aircraft building gate positions;
- (vii) To the extent permitted by KIAC, all work necessary or required to construct lateral mains to tie into the Central Terminal Area ring supply lines for hot water for heating and domestic use purposes only and chilled water for air conditioning purposes only; provided, however, that to the extent permitted by KIAC, such work, upon completion, shall become the property of the Port Authority or its designee and shall not be part of the Premises;
- (viii) As appropriate, construction of new, and/or modification of existing, circulation areas;
- (ix) As appropriate, construction of new, and/or modification of existing, aircraft ramp and apron areas;
- (x) All grading and paving of ground areas and appropriate landscaping together with all related and associated work;
- (xi) All taxilanes, taxiway access stubs, taxiways, restricted vehicles service road (also known as RVSR) and associated and related areas and facilities including without limitation all paving, line striping, lighting (including centerline lights) and signage appropriate or necessary in connection with the construction of the T5i Project-Phase 1;
- (xii) All necessary or required blast fences and other fencing; and

(xiii) All other appropriate or necessary work in connection with effectuation of the T5i Project-Phase 1 including, without limitation, all borings, surveys, route marker signs, obstruction lights and material inspections and testing, and also including all other ties, temporary and otherwise, to utility lines and roadway access stubs.

(3) Updates .

The Lessee shall keep the Comprehensive Plan up to date and shall submit to the Port Authority for its approval all amendments, supplements or modifications thereto, which amendments, supplements or modifications shall not become effective until the same have been approved by the Port Authority.

(c) Risk of Loss. With respect to the Lessee's Construction Work, the Lessee shall procure insurance in its own name as insured, and including the City Insureds and the Port Authority, and its Commissioners, officers, agents and employees as additional insured, against the following risks, whether they arise from acts or omissions of the Lessee, any contractors of the Lessee, the Port Authority, third persons, or from acts of God or the public enemy, or otherwise, excepting only risks which result solely from affirmative willful acts done by the Port Authority subsequent to commencement of the work:

(1) The risk of loss or damage to all such construction, if any, prior to the completion thereof. In the event of such loss or damage, the Lessee shall forthwith repair, replace and make good the work without cost to the Port Authority;

(2) The risk of death, injury or damage, direct or consequential, to the Port Authority, and its Commissioners, officers, agents and employees, and to its or their property, arising out of or in connection with the performance of the work. The Lessee shall indemnify and hold harmless the Port Authority, and its Commissioners, officers, agents and employees, for all such injuries and damages (including without limitation, direct or consequential damages), and for all loss suffered by reason thereof; and

(3) The risk of claims and demands, just or unjust, by third persons against the Port Authority, and its Commissioners, officers, agents and employees, arising or alleged to arise out of the performance of the work. The Lessee shall indemnify and hold harmless the Port Authority, and its Commissioners, officers, agents and employees, against and from all such claims and demands, and for all loss and expense incurred by it and by them in the defense, settlement or satisfaction thereof including without limitation thereto, claims and demands for death, for personal injury or for property damage, direct or consequential.

(d) Required Subcontract Provision.

In addition to and without limiting any terms and provisions hereof, the Lessee shall provide in all of its contracts and subcontracts covering the Lessee's Construction Work, or any portion thereof, the following provision:

“If (i) the contractor fails to perform any of its obligations under the contract, including its obligation to [the Lessee] or to [the Construction Manager], as the case may be, to pay any claims lawfully made against it by any materialman, subcontractor or workman or other third person which arises out of or in connection with the performance of the contract or (ii) any claim (just or unjust) which arises out of or in connection with the contract is made against [the Lessee] or [the Construction Manager], as the case may be, or (iii) any subcontractor under the contract fails to pay any claims, lawfully made against it by any materialman, subcontractor, workman or other third person which arises out of or in connection with the contract or if in [the Lessee]’s opinion any of the aforesaid contingencies is likely to arise, then [the Lessee] shall have the right, in its discretion, to withhold out of any payment (final or otherwise and even though such payments have already been certified as due) such sums as [the Lessee] may deem ample to protect it against delay or loss or to assume the payment of just claims of third persons, and to apply such sums in such manner as [the Lessee] may deem proper to secure such protection or satisfy such claims. All sums so applied shall be deducted from the contractor’s compensation. Omission by [the Lessee] to withhold out of any payment, final or otherwise, a sum for any of the above contingencies, even though such contingency has occurred at the time of such payment, shall not be deemed to indicate that [the Lessee] does not intend to exercise its right with respect to such contingency. Neither the above provisions for rights of [the Lessee] to withhold and apply monies nor any exercise, or attempted exercise of, or omission to exercise such rights by [the Lessee] shall create any obligation of any kind to such materialmen, subcontractors, workmen or other third person. Until actual payment is made to the contractor, his or her right to any amount to be paid under the contract (even though such amount has already been certified as due) shall be subordinate to the rights of [the Lessee] under this provision.”

(e) Construction Application; Contractors.

(1) Prior to the commencement of any of the Lessee’s Construction Work, the Lessee shall submit to the Port Authority for its approval a Construction Application in the form supplied by the Port Authority pursuant to TCAP requirements, and containing such terms and conditions as the Port Authority may include (the “**Construction Application**”), setting forth in detail by appropriate plans and specifications the work the Lessee proposes to perform and the manner of and time periods for performing the same, including without limitation a schedule listing each contract proposed to be entered into for the performance of the work and the estimated cost of the work to be performed under each such contract. The data to be supplied by the Lessee shall identify each of the items constituting the Lessee’s Construction Work, and shall describe in detail the systems, improvements, fixtures and equipment to be installed by the Lessee. The Lessee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be directed by the Port Authority and for developing, completing and submitting detailed plans and specifications for the work. The plans and specifications to be submitted by the Lessee shall be in sufficient detail for a contractor to perform the work and shall bear the seal of a qualified and licensed architect or professional engineer. A qualified and licensed architect or professional engineer shall be responsible for the administration of the work in accordance with the Port Authority’s requirements. In connection with review by the Port Authority of the Lessee’s submissions under this paragraph, the Lessee shall submit to the Port Authority, at the Port Authority’s request, such additional data, detail or information as the Port Authority may find necessary. Following the Port Authority’s receipt of the Lessee’s complete Construction

Application and complete plans and specifications, the Port Authority shall give its written approval or rejection thereof, or shall request such revisions or modifications thereto as the Port Authority may find necessary. The Lessee shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor, and the contract such contractor is operating under, have been approved by the Port Authority. The Lessee shall include in any such contract or subcontract such provisions as are required in accordance with the provisions of this Third Supplement and the Construction Application approved by the Port Authority. The Lessee shall obtain and maintain or cause each contractor to obtain and maintain in force such insurance coverage as is described in subparagraphs (j) and (k) of this Paragraph 8 and such performance bonds as the Port Authority may specify (if any).

All of the Lessee's Construction Work shall be performed by the Lessee in accordance with the Construction Application and final plans and specifications approved by the Port Authority, shall be subject to inspection by the Port Authority during the progress of the work and after the completion thereof, and the Lessee shall redo or replace at its own expense any work not done in accordance therewith. Upon final completion of all of the Lessee's Construction Work the Lessee shall deliver to the Port Authority a certificate to such effect signed by an authorized officer of the Lessee and by a qualified and licensed architect or engineer certifying that all of the work has been performed in accordance with the approved plans and specifications and the provisions of this Supplement, and the Lessee shall supply the Port Authority with as-built drawings of the Lessee's Construction Work in such form and number requested by the Port Authority. The Lessee shall keep said drawings current. No changes or modifications to such work shall be made without prior Port Authority consent. Following its receipt of the Lessee's certificate, the Port Authority shall inspect the work and, unless such certification is not correct, or the Port Authority determines that the Premises are unsuitable for occupancy and use by the Lessee, a certificate of final completion shall be delivered to the Lessee by the Port Authority.

(2) Except as set forth in this Paragraph 8 concerning Partial Approval Work, the Lessee shall not commence any portion of the Lessee's Construction Work until the Construction Application and plans and specifications covering such work have been finally approved by the Port Authority, and the insurance required pursuant to subparagraph (j) of this Paragraph procured.

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

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

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

(iii) not comply with the Port Authority's requirements with respect to exterior and interior building materials and finishes, as well as quality of construction, currently existing at the Terminal, or

(iv) not provide for sufficient clearances for taxiways, runways and apron areas, or

(v) be designed for use for purposes other than those authorized under this Third Supplement, or

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

(vii) not provide adequate and proper circulation areas within the Premises, or

(viii) not be at locations or not be oriented in accordance with the Comprehensive Plan, or

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

(x) permit aircraft to overhang the boundary of the Premises, except when entering or leaving the Premises (unless such overhang is otherwise permitted pursuant to a valid easement or other agreement), or

(xi) be in violation or contravention of any other provisions and terms of the Lease, or

(xii) not comply with all applicable law, and Port Authority standards and guidelines, or

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

(xiv) not comply with the Port Authority's requirements with respect to landscaping (if applicable), or

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

(xvi) interfere with or otherwise negatively impact operations at the Premises, including without limitation the operations of the Lessee's sublessees, if any, or

(xvii) without limiting any other term or provision hereof, not comply with the Americans With Disabilities Act of 1990 and all federal rules, regulations and guidelines pertaining thereto, or

(xviii) not comply with the T5i Project- Phase 1 Basis of Design, or

(xvix) not properly coordinate construction staging with other ongoing Airport construction projects and airport operations.

(f) If the Lessee desires to commence construction of portions of the Lessee's Construction Work prior to the approval by the Port Authority of the complete Construction Application and plans and specifications covering all of such work pursuant to subparagraph (c) of this Paragraph, the Lessee shall submit to the Port Authority a separate Construction Application for each portion of the Lessee's Construction Work the Lessee so desires to commence (each such portion of the Lessee's Construction Work being hereinafter designated as "**Partial Approval Work**") which shall be executed by an authorized officer of the Lessee and shall be accompanied by final and complete plans, specifications, drawings, and data with respect to such portion of the Lessee's Construction Work (the final and complete plans, specifications, drawings, and data covering each such portion of the Lessee's Construction Work are hereinafter referred to as "the Partial Approval Work Plans" with respect to such portion of the Lessee's Construction Work) setting forth in detail the work to be performed in connection with each such portion of the Lessee's Construction Work. The Port Authority shall use its discretion to determine whether to permit the Lessee to proceed with the performance of any Partial Approval Work. If the Port Authority consents to the performance of any Partial Approval Work, the Port Authority shall review the Construction

Application covering such work and shall give its written approval or rejection of the Partial Approval Work Plans with respect thereto or shall request such revisions or modifications thereto as the Port Authority may find necessary. Upon the Port Authority's approval of the Construction Application covering an item of Partial Approval Work and its approval of the Partial Approval Work Plans with respect thereto, the Lessee may proceed to perform such item of Partial Approval Work subject to and in accordance with the following terms and conditions:

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

(2) Nothing contained in any approval given pursuant to this paragraph shall constitute a determination or indication by the Port Authority that the Lessee has complied with any laws, rules, orders, ordinances, enactments, resolutions, regulations, statutes, requirements, codes, directions, and executive orders, including but not limited to those of the State of New York, Borough of Queens or City of New York, which may pertain to the Partial Approval Work to be performed and which the Lessee is required to comply with pursuant to the Lease, as amended by this Third Supplement.

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

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

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

is required before the Port Authority can approve, reject, or comment upon such Partial Approval Work Plans.

(g) Minimization of Pollution and Noise. Without limiting the generality of any of the provisions of this Third Supplement, the Lessee's Construction Work (including any Partial Approval Work performed by the Lessee) shall be performed in such a manner that there will be at all times during construction reasonable efforts made to minimize the effects of any air pollution, water pollution or any other type of pollution, and to minimize the noise emanating from, arising out of, or resulting from construction. Subject to the provisions of this Third Supplement, the Lessee shall construct such reasonable structures, fences, equipment, devices and other facilities as may be necessary or appropriate to accomplish the objectives set forth in this paragraph, and, without limiting the generality of the foregoing, such construction shall be subject to the Port Authority's review and approval in accordance with the provisions of this Third Supplement.

(h) No Port Authority Responsibility.

(i) Without limiting the generality of subparagraph (e) of this Paragraph, the Lessee shall be solely responsible for the plans and specifications used by it and for the adequacy or sufficiency of such plans and specifications and all the improvements, fixtures, and equipment depicted thereon or covered thereby, regardless of the consent thereto or approval thereof by the Port Authority or the incorporation therein of any Port Authority requirements or recommendations. The Port Authority shall have no obligation or liability in connection with the performance of any of the Lessee's Construction Work or for the contracts for the performance thereof entered into by the Lessee. Any warranties extended or available to the Lessee in connection with the aforesaid work shall be for the benefit of the Port Authority as well as the Lessee. The Lessee shall not conduct any business at the Premises with respect to any improvements, fixtures or equipment constituting any of the Lessee's Construction Work until the Port Authority shall have delivered a certificate of final completion to Lessee pursuant to subparagraph (bb) of this Paragraph 8. In the event of any inconsistency between the provisions of this Third Supplement and those of the Construction Application referred to in subparagraph (e) of this Paragraph 8 the provisions of this Third Supplement shall control.

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

(i) Payment of Claims. The Lessee shall pay or cause to be paid all claims lawfully made against it by its contractors, subcontractors, materialmen and workmen, and all claims lawfully made against it by other third persons arising out of or in connection with or because of the performance of the Construction Work, and shall cause its contractors and subcontractors to pay all

such claims lawfully made against them. Nothing herein contained shall be deemed to constitute consent to the creation of any lien or claim against the Premises or any part thereof or any other part of the Airport, nor to create any rights in said third persons against the Port Authority, nor prevent the Lessee from contesting claims in good faith.

(j) Insurance Coverages. In addition to all policies of insurance otherwise required by this Third Supplement, the Lessee shall procure and maintain or cause to be procured and maintained in effect during the performance of the Lessee's Construction Work

(1) Commercial General Liability Insurance including but not limited to bodily injury, property damage including premises, product and contractual liability covering the obligations assumed by the Lessee under this Paragraph, and which are customarily insured under such a policy, with a minimum combined single limit coverage for death, bodily injury and property damage of \$100,000,000 per occurrence, with no aggregate limit;

(2) Commercial Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with said construction with a minimum combined single limit coverage for death, bodily injury and property damage of \$25,000,000 per occurrence, with no aggregate limit; and

(3) Environmental Impairment Liability Insurance, with a minimum combined single limit coverage per claim for death, bodily injury and property damage, with liability for both gradual and sudden and accidental occurrences and both on-site and off-site cleanup of \$5,000,000 per occurrence.

(k) Insurance Policies and Certificates. Each policy of insurance described in subparagraph (j) of this Paragraph shall include the Port Authority as an additional insured, and, with the exception of the Environmental Impairment Liability Insurance policy required pursuant to subparagraph (j)(3), shall also include the City of New York as an additional insured, in its coverages including, without limitation, coverage for premises-operations and completed operations, and no such policy shall contain any care, custody or control exclusions, or any exclusion for bodily injury to or sickness, disease or death of any employee of the Lessee or of any of its contractors which would conflict with or in any way impair the coverages resulting from the Port Authority's status as an additional insured, or the coverage under the contractual liability endorsement described in sub-subparagraph (1) of subparagraph (j) of this Paragraph 8. The certificates of such insurance shall also contain an endorsement providing that the protection afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third party shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority and against the Port Authority by the Lessee, but said endorsement shall not limit, vary, change or affect the protections afforded the Port Authority as an additional insured and/or loss payee, as applicable. Such insurance shall contain a provision that the insurer shall not, without obtaining express written permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.

(l) Title to Improvements. Title to all improvements and fixtures placed, constructed or installed in or on the Premises as the Lessee's Construction Work shall vest immediately in the City of New York upon placement, construction or installation thereof and title to any and all equipment and trade fixtures removable without substantial injury to the Premises placed in or installed upon the Premises as part of the Lessee's Construction Work shall remain with the Lessee.

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

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

(o) Affirmative Action, Non-Discrimination, etc.

(i) Consistent with the Second Supplement, and without limiting any of the terms and conditions hereof, the Lessee understands and agrees that it shall put into effect prior to the commencement of the Lessee's Construction Work an affirmative action program and MBE program and WBE program in accordance with the provisions of "Schedule E," attached hereto and hereby made a part hereof. The provisions of the Second Supplement that relate to Schedule E including, without limitation, the applicability of Schedule E to the Lessee's contractors and subcontractors, shall apply in the same manner and to the same extent to the Construction Work hereunder.

(ii) In addition to and without limiting any terms and provisions hereof, the Lessee shall provide in all of its contracts and subcontracts covering the Lessee's Construction Work, or any portion thereof, that:

(1) The contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability

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

(2) At the request of either the Port Authority or the Lessee, the contractor shall request such employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding and which is involved in the performance of the contract with the Lessee to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder;

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

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

(5) "Contractor" as used in this subparagraph shall include each contractor and subcontractor at any tier of construction.

(p) Port Authority Right of Inspection; No Duty to Inspect or Police .

The Port Authority shall have the right (but not the obligation), through its duly designated representatives, to inspect the Construction Work and the plans and specifications thereof, at any and all reasonable times during the progress thereof and from time to time, in its discretion, to take samples and perform testing on any part of the Construction Work.

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

(q) Soil Erosion Control Measures.

The Lessee shall take all reasonable measures to prevent erosion of the soil and the blowing of sand during and arising from the performance of the Construction Work, including, but not limited to, the fencing of the Premises or portions thereof or other areas and the covering of open areas with such materials as required by the approved Storm Water Pollution Prevention Plan, NYSDEC and Port Authority permit requirements or as otherwise deemed necessary as a best management practice under the BMP Plan pursuant to the State Pollution Discharge Elimination System Permit SPDES NO. 2-6308-0019, as amended or revised.

(r) Backfilling of Excavations.

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

(s) Studies and Reports.

The Lessee shall prior to the commencement of construction and at all times during construction submit to the Port Authority all engineering studies and inspection reports with respect to the Construction Work which have been performed by the Lessee, and samples of construction materials as may be required at any time and from time to time by the Port Authority.

(t) Forecasts.

The Lessee shall, at the time of submitting the Comprehensive Plan to the Port Authority, submit to the Port Authority its forecasts of the number of people who will be working at various times during the T5i Project-Phase 1 at the Premises, the expected utility demands of the Premises, noise profiles and such other information as the Port Authority may require. The Lessee shall continue to submit its latest forecasts and such other information as may be required as aforesaid as the Port Authority shall from time to time and at any time request. The Port Authority acknowledges that the forecasts are estimates and may change from time to time.

(u) General Manager's Authority.

In the event that the Lessee shall at any time during the construction of any portion of the Construction Work, in the opinion of the General Manager of the Airport, (i) fails to comply with all of the provisions of this Third Supplement covering such work or of the Construction Application; (ii) fails to comply with any requirements, stipulations, or provisions imposed by the Port Authority in its approval of the performance of any item of Construction Work; or (iii) shall be in breach of any of the provisions of this Third Supplement covering such work, or of the Construction Application, or of any requirements, stipulations, or provisions imposed by the Port Authority in its approval of the Construction Work, the Port Authority shall have the right, acting through the General Manager to cause the Lessee to cease all or such part of the Construction Work as is being performed in violation of this Third Supplement or the Construction Application. Upon

such written direction from the General Manager, the Lessee shall promptly cease construction of the portion of the Construction Work specified. The Lessee shall thereupon submit (1) to the Port Authority for its written approval the Lessee's proposal for making modifications, corrections or changes in or to the Construction Work that has been or is to be performed so that the same shall comply with the provisions of this Third Supplement and the Construction Application; or (2) the dispute to the Chief Engineer of the Port Authority for final determination. The Lessee shall not commence construction of the portion of the Construction Work that has been halted until such written approval has been received or the dispute has been determined by the Chief Engineer of the Port Authority.

(v) Authority of Port Authority's Resident and Field Engineers.

It is hereby expressly understood and agreed that neither Port Authority field engineers nor the Resident Engineer of the Port Authority at the Airport has any authority to give any directions to the Lessee or to approve any plans and specifications of the Lessee with respect to the Construction Work, to approve the construction by the Lessee of any portion of the Construction Work or to agree to any variation by the Lessee from compliance with the terms of this Third Supplement or the Construction Application.

(w) Relocation Work.

(i) The Lessee understands that there may be communications and utility infrastructure located on or under the Premises which do not, and may not in the future, serve the Premises but which may be affected by the Construction Work. The Lessee agrees, if directed by the Port Authority so to do, to relocate and reinstall such communications and utility infrastructure on the Premises or off the Premises and to restore all affected areas (such work, collectively, the "**Relocation Work**"). The Lessee shall perform the Relocation Work subject to and in accordance with all the terms and provisions of this Paragraph, and the Relocation Work shall be and become a part of the Construction Work, it being understood, however, that the Relocation Work shall not be or become a part of the Premises. The parties acknowledge that the Relocation Work shall include, among other things, all water lines which are not part of the Non-Relocated Infrastructure (as defined in subparagraph (w)(ii), below, e.g., 16-inch water lines and 30-inch high pressure water lines, both of which shall be relocated outside the footprint of any improvement on the Premises.

(ii) The parties also acknowledge that, as part of the Comprehensive Plan, with the Port Authority's prior approval as part of the TCAP, the Lessee intends to leave in place and construct over certain communications and utility infrastructure located under the Premises including, by way of example, two 5kV ductbanks, one communications ductbank and a 24-inch water line within a 36-inch microtunnel sleeve (collectively, the "**Non-Relocated Infrastructure**"). With respect to the Non-Relocated Infrastructure, the Lessee acknowledges that paragraph (b) of Section 10 of the Lease, entitled "*Care, Maintenance, Rebuilding and Repair by the Lessee*", shall apply to same inasmuch as the Lessee shall have the entire responsibility, and bear all costs and expenses, for and in connection with the Non-Relocated Infrastructure during the term of the letting under the Lease and the Port Authority shall have no obligations with respect thereto, subject only to the following limitations: the Lessee shall be responsible for any and all repair, rebuilding and maintenance in connection with the Non-Relocated Infrastructure up to a point that is five (5) feet beyond the building line, except for the 5kV ductbanks and cables as to which the Lessee's responsibility and liability shall extend to the manholes closest to the leasehold line and except for

the communications ductbank and cables as to which the Lessee's responsibility shall extend to the manholes closest to the leasehold line.

As part of its responsibility for and in connection with the Non-Relocated Infrastructure, the Lessee acknowledges the following specific requirements. It shall take immediate action to rectify any damage or service interruption or cessation to or in connection with the utilities portion of the Non-Relocated Infrastructure under the footprint of the Terminal (as expanded by the T5i Project-Phase 1), and such rectifying work shall continue until all services is fully restored and operational and shall include testing and re-activation of service. In initiating and undertaking such rectifying work, the Lessee at all times shall coordinate its activities with all affected parties. All such work shall be effected with appropriate materials and labor that is compliance with all Port Authority requirements and standards and any applicable FAA standards.

(x) Compliance with Laws, Regulations and TCAP.

Without limiting the provisions of Paragraph 4 of this Third Supplement, the Construction Work shall be performed in compliance with the provisions of Section 7 of the Lease, entitled "*Rules and Regulations*" and Section 6 of the Lease, entitled "*Compliance with Governmental Requirements*", and in accordance with all Environmental Requirements. Without limitation as to the generality of the foregoing, the Construction Work shall comply with FAA AC 150/5370-10A Standards for specifying construction of Airports" item P-156, as applicable, and shall include a storm water pollution prevention plan which includes best management practices. The Lessee shall be solely responsible for compliance with all applicable governmental laws, ordinances, enactments, resolutions, rules and regulations and orders including, but not limited to, the filing of all documents required by, and compliance with, the Port Authority's TCAP relating to the T5i Project-Phase 1 and Port Authority's policy on sustainable design as set forth in the sustainable design guidelines promulgated by the Port Authority Engineering Department from time to time.

(y) Disposition of Matter.

(i) Subject in all events to the Environmental Requirements and Port Authority-approved Environmental Management Plan, any soil, dirt, sand or other matter (collectively, the "**Matter**") excavated by the Lessee during the course of the Construction Work and not used at the Premises shall not be stored at the Premises or elsewhere at the Airport, but shall promptly be delivered by the Lessee to any location off the Airport as may be approved by the Port Authority. The Lessee shall take title to the Matter, and the entire proceeds, if any, of the sale or other disposition of the Matter shall belong to the Lessee to be used solely for the benefit of the T5i Project-Phase 1. The Port Authority has not, and shall not, make any representations or certifications to the Lessee as to the character of the Matter for disposal purposes.

(ii) The Lessee shall submit to the Port Authority for its approval all manifests and bills of lading and disposal certificates covering any Matter, and in addition shall prepare and submit to the Port Authority for its approval all documentation that the Lessee is required to submit to the disposal site or the Governmental Authority having jurisdiction with respect to any Matter.

(iii) With respect specifically to Matter that is petroleum contaminated soil derived solely from the portion of the Premises on which Terminal 5 is located (“ **T5 Petroleum Contaminated Soil** ”), if any, the Port Authority shall be responsible for the incremental Tipping Fees (as described, below) incurred in connection with the T5i Project-Phase 1 Construction Work that are associated with the disposal of such T5 Petroleum Contaminated Soil, as set forth in this clause (iii), and up to the amount described in subclause (iii)(9) below. The Port Authority shall have no obligation whatsoever for all or any portion of any Tipping Fee cost or other disposal costs associated with the disposal of soil derived from any portion of the Terminal 6 Additional Premises. The Port Authority shall only be responsible for the incremental Tipping Fees incurred in connection with T5 Petroleum Contaminated Soil if, and only if, all of the following conditions precedent have been satisfied:

(1) The Lessee shall have notified the Port Authority verbally and by electronic communication (with confirmation of receipt) to the Port Authority Resident Engineer and Principal Environmental Engineer within twenty four (24) hours after T5 Petroleum Contaminated Soil has been identified on the Premises in the course of performing the Construction Work or otherwise in connection with the T5i Project-Phase 1, such communications to be followed with a writing from the Lessee within a reasonable period of time to be no greater than five (5) calendar days;

(2) The Port Authority shall have inspected and confirmed the T5 Petroleum Contaminated Soil finding and that such soils are not the result of a construction-related spill or release caused by Lessee, employees, agents or contractors;

(3) The Lessee shall have obligated its agents, employees and contractors to advise the Lessee’s Director of Redevelopment verbally and by electronic communication within twelve (12) hours of such identification;

(4) The T5 Petroleum Contaminated Soil shall have been located on the Premises due to other than an action or inaction (whether negligence, willful misconduct or otherwise) by the Lessee, its agents, employees, contractors or representatives; .

(5) The T5 Petroleum Contaminated Soil shall be unsuitable for beneficial reuse;

(6) The Lessee shall have previously selected and identified to the Port Authority at least two sites, approved by the Port Authority, to receive excess soils generated from the site of the T5i Project-Phase 1, in accordance with the TCAP and shall have accepted one additional alternative site, identified and approved by the Port Authority; for beneficial reuse of such excess soils. It is understood and agreed that the Lessee may use, for disposition of excess soils generated from the site of the T5i Project-Phase 1, any of the TCAP, pre-approved disposal sites or the alternative site identified by the Port Authority (each an “ **Approved Soil Disposal Site** ”, and collectively, the “ **Approved Soil Disposal Sites** ”);

(7) The Lessee shall have delivered the Port Authority information and documentation (which may be in the form of an electronic communication), sufficient in the opinion of the Port Authority to audit the transaction, evidencing the Tipping Fee cost that would be charged to the Lessee to admit soils from the Construction Work site for beneficial reuse or treatment at such facility, it being understood that such information and documentation must include the name and location of the relevant Approved Soil Disposal Site, the specific description of material as to which the Tipping Fee cost relates, the contact information for a member of management at the relevant Approved Soil Disposal Site who is knowledgeable about Lessee's transaction, and a copy of the applicable contract/invoice issued by the Approved Soil Disposal Site to the Lessee. The Lessee shall accompany the afore-described information and documentation with an attached written certification, signed under penalties of perjury by a responsible officer of the Lessee, as to the accuracy of all of the information and documentation so delivered to the Port Authority;

(8) (x) The Lessee shall have provided to the Port Authority (x) documentation (which may be in the form of an electronic communication), sufficient in the opinion of the Port Authority to audit the transaction, from each Approved Soil Disposal Site listed in clause (7), immediately above, expressly stating that it rejects admission of the T5 Petroleum Contaminated Soil which is the subject of this paragraph concerning Tipping Fee costs and, in addition, the detailed, specific reason for such rejection, (y) each document described in clause (x) must be signed by the individual of such entity who has responsibility for determining whether to accept or reject soil for treatment at such facility, and (z) each said rejection must be in accordance with the acceptance criteria submitted to the Port Authority as part of the Lessee's original request to approve the facility as an Approved Soil Disposal Site. In addition, the Lessee shall identify a proposed alternative treatment;

(9) The rejected T5 Petroleum Contaminated Soil is ultimately treated at a treatment facility for soils that are not suitable for beneficial reuse and which treatment facility shall be approved in advance in writing by the Port Authority, it being acknowledged and agreed that the Port Authority has the right in the first instance to require the Lessee to utilize an alternate treatment facility than one proposed by the Lessee for this purpose if the alternate treatment facility desired by the Port Authority would charge less in Tipping Fees than the treatment facility proposed by the Lessee and the combined transportation cost plus Tipping Fees, i.e., the total cost to treat the T5 Petroleum Contaminated Soil, is equal to or less at the Port Authority-selected alternate facility than the total cost would be at the facility proposed by the Lessee. The " **incremental Tipping Fee** " shall be the difference between (A) the highest Tipping Fee charged at an Approved Soil Disposal Site, as stated among the documentation delivered by the Lessee to the Port Authority in accordance with clause (y) (iii)(7), above, and (B) the actual Tipping Fee charged for the T5 Petroleum Contaminated Soil at the treatment facility actually used, per this clause (y)(iii)(9); and

(10) Sampling of soil to be removed off the Premises in connection with the Construction Work site shall be performed in accordance with the protocol approved by the Port Authority and the Port Authority shall have been notified 24 hours in advance of any sampling to be completed for the purpose of assessing the disposition of the soil.

(z) Specific Environmental Requirements Relating to Construction.

(i) Compliance with Environmental Requirements.

The Construction Work shall be performed in compliance with all Environmental Requirements, and in connection therewith the Lessee shall duly procure all applicable permits of Governmental Authorities.

Notwithstanding the foregoing, where the other terms and provisions of this Third Supplement provide requirements that are stricter than or additional to Environmental Requirements, the Construction Work shall comply with such stricter or additional requirements, and references in this Paragraph 8 to “Environmental Requirements” shall be interpreted accordingly.

Without limitation as to the foregoing, but subject to subparagraph (viii) below of this Paragraph 8(z), all Construction Work shall be performed in compliance with Permit No. GP-0-10-001, SPDES General Permit for Stormwater Discharges from Construction Activities, issued by the DEC on January 29, 2010, including without limitation the Storm Water Pollution Prevention Plan filed pursuant thereto by Lessee in connection with the Construction Work (including any extension or successor to such permit, the “**JetBlue Discharge Permit**” [u](#)), and all such obligations and conditions of the “**JFK SPDES Permit**” (NY 0008109 renewal effective March 1, 2012) and the approved Best Management Plan including, but not limited to, Best Management Practice “BMP” 7 set forth therein as the same may be amended from time to time.

(ii) No Exacerbation.

In the performance of the Construction Work, the Lessee shall not exacerbate the existing environmental condition of the Premises, the Airport or any natural resource including, without limitation, any groundwater or aquifer.

(iii) Environmental Management Plan.

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

(iv) Remediation of Spills.

In the event that any Hazardous Substances are discovered, uncovered, exposed, spilled, released, discharged or disposed on the Airport in the performance of the Construction Work (any such event, a “**Spill**”), the Lessee shall immediately (w) notify the Port Authority of such Spill, (x) excavate all soil containing any such Hazardous Substances, (y) pump and treat all ground water containing any such Hazardous Substances, and (z) delineate such Spill to the satisfaction of the Port Authority. Such pumping and treatment shall continue until all such Hazardous Substances have been removed in accordance with Environmental Requirements. No

Construction Work shall be performed in the area of such Spill until all such Hazardous Substances have been so removed. No Construction Work that would interfere or delay such Remediation shall be performed in the area of such Spill until all such Hazardous Substances have been so removed. Notwithstanding the foregoing, however, with respect to any Hazardous Substances discovered, tested or sampled in connection with the performance of the Construction Work (inclusive of excavation), such responsibility for Remediation, during construction, shall apply only with respect to such Hazardous Substances existing within each excavated area plus a five (5) foot-wide (measured from the widest extent, surface or subsurface, of the excavation) strip of land around the perimeter of the entirety of such excavated area. Responsibility for the completion of the Remediation, shall be determined in accordance with paragraph (z) herein.

(v) Reporting to Governmental Authority.

In reporting a Spill, the Lessee shall follow all Environmental Requirements and shall direct such report to the attention of such individual at the relevant Governmental Authority as the General Manager of the Airport may require, in order to assure consistency in the environmental management of the Airport.

(vi) Certificate of Final Disposal.

Promptly upon final disposition of any Hazardous Substance, the Lessee shall submit to the Port Authority a “Certification of Final Disposal” stating the type and amount of material disposed, the method of disposal and the owner and location of the disposal facility. The format of such certification shall follow the requirements, if any, of Governmental Authorities having jurisdiction as if the Port Authority were a private organization, provided, however, that in all events the name of the Port Authority shall not appear on any certificate or other document as a generator or owner of such material.

(vii) Responsibility to Obtain NFA Status.

In all events, the Lessee shall be fully responsible for obtaining a No Further Action (“NFA”) status from the DEC with respect to all Spills reported to the DEC, and the Lessee shall complete all necessary remedial actions, monitoring and reporting necessary to obtain such NFA status. The Lessee shall be fully responsible for all costs associated with any long-term monitoring, reporting and closure activities relating to or resulting from such reported Spills both before and after the Completion Date.

(viii) Dewatering and Discharge of Effluent.

(a) Dewatering and Discharge of Effluent.

The Port Authority hereby grants its permission to the Lessee to perform dewatering and discharge of effluent in connection with the Construction Work but only on the portion of the Premises that does not include the Terminal 6 Additional Premises; provided, however, that the Port Authority shall approve all dewatering plans and practices prior to any discharge, and the Lessee shall comply with all the terms and conditions of the JetBlue Discharge Permit, Long Island Well Permit and JFK SPDES Permit, where applicable, and with all additional requirements of the DEC with respect to such dewatering activities and discharge of effluent. The foregoing permission may

be revoked by the Port Authority upon twenty-four (24) hours' notice to the Lessee if the Lessee fails, within five (5) days after the Lessee's receipt of notice of default from the Port Authority identifying the breach(es) of this Paragraph (z)(viii), entitled "*Dewatering and Discharge of Effluent*", to cure any such breach(es).

The Lessee shall design and implement appropriate engineering practices and controls for all dewatering activities in the performance of the Construction Work to prevent contamination into the lower aquifer.

Dewatering and discharges shall be monitored and reported separately for each individual discharge point that comprises the Construction Work. Accordingly, separate monitoring systems shall be used to track dewatering and discharge activities performed in connection with the Construction Work. Upon the Port Authority's request at any time and from time to time, the Lessee shall provide additional samples and tests relating to the dewatering system. The Lessee shall keep all documentation of all groundwater volumes treated, sampled and discharged, and shall provide all such documentation to the Port Authority.

The Lessee shall install any and all treatment items requested or required by the DEC, the General Manager of the Airport or any approved Construction Application and/or indicated by water quality sampling results. All effluent shall meet the JFK SPDES Permit limits and any additional limits prescribed by the DEC.

In the event that the projected zone of influence of the Lessee's dewatering system is found to extend into any area outside of the Premises, the Lessee shall notify the Port Authority by submitting to the Resident Engineer for his review and approval the proposed dewatering design, which shall identify potentially affected non-pile supported structures and pavements which may be impacted by drawdown effects during dewatering operations.

In the event that the Lessee's dewatering activities hereunder involve the use of wells, the Lessee shall, not later than ten (10) days after completion of dewatering activities and receipt of any approvals of a Governmental Authority, perform and complete a closure of all such wells in conformance with DEC requirements. The Lessee shall promptly notify both the Port Authority and the DEC of this action.

(b) Responsibility for Incremental Dewatering Costs.

Incremental Dewatering Costs shall refer to materials, equipment and labor costs incurred and paid by the Lessee and directly related to supplemental treatment (which, in accordance with subparagraph (a), above, references costs relating to supplemental treatment only on the portion of the Premises that excludes the Terminal 6 Additional Premises. The Lessee shall submit a list of materials and equipment related to supplemental treatment to the Resident Engineer for approval prior to their use. The Lessee shall also submit anticipated monthly material costs anticipated for the duration of the supplemental treatment to the Resident Engineer for approval. Incremental Labor cost shall refer to labor that is required to operate and maintain the equipment approved by the Port Authority's Resident Engineer for supplemental treatment and which requires the operator to exceed the operating hours per shift for the operation of the dewatering system without supplemental treatment. The Lessee shall provide the operating hours of the dewatering system for each shift without supplemental treatment for the all days the system operated without

supplemental treatment to the Resident Engineer for approval prior to operating the supplemental treatment. If the dewatering system has not operated prior to the addition to the supplemental treatment, the Lessee shall submit documentation (e.g., daily work logs) providing the operating hours for on-site construction activity. The operating hours required per shift to operate the dewatering system without supplemental treatment shall be equivalent to the longest work shift for on-site construction activity and not less than eight (8) hours per shift.

The Lessee shall submit the amount and nature of Incremental Dewatering Costs incurred by it to the Port Authority on a monthly basis. Any cost submitted to and received by the Port Authority exceeding 90 days from its date of occurrence shall not be reimbursable, or reimbursed, by the Port Authority. The Port Authority shall be responsible for fifty percent (50%) of the Incremental Dewatering Costs incurred and paid by the Lessee, as aforesaid, and the Lessee shall be responsible for the balance thereof.

(ix) Lessee's Environmental Professionals.

The Lessee shall designate, by written notice to the Port Authority given not later than five (5) days after the Lessee's execution of this Third Supplement, a duly authorized representative of the Lessee (the "**Lessee Environmental Representative**") who shall be responsible for the Lessee's compliance with the JFK SPDES Permit.

Upon notice to the Lessee by the Port Authority, which may be given at any time upon any indication of non-compliance or potential non-compliance by the Lessee with the JFK SPDES Permit, JetBlue Discharge Permit or Long Island Well Permit, the Lessee shall at its own expense immediately retain under contract, independent of the Lessee's construction contractor, a qualified environmental consultant approved by the Port Authority (the "**Lessee Environmental Consultant**"). The Lessee Environmental Consultant shall provide liaison with the Port Authority, and shall have the obligation to submit any and all reports, and any other requested information, directly to the Port Authority and to oversee installation, if applicable, of dewatering wells by a licensed driller, and to monitor contractor compliance with all dewatering operations. The Lessee Environmental Consultant shall at all times be an independent contractor of the Lessee. The Port Authority shall not be responsible for any act or omission or fault or neglect of the Lessee's Environmental Consultant, nor shall the Port Authority have any liabilities or obligations of any kind to the Lessee Environmental Consultant, or any responsibility for any payments due or alleged to be due thereto.

The Lessee Environmental Representative and/or the Lessee Environmental Consultant shall promptly notify the Port Authority's Resident Engineer of the progress of scheduled activities, including initiation of dewatering activities, and shall provide weekly updates (by facsimile) on the activities at the Premises, including the status of dewatering activities (e.g., volumes removed, condition of waters).

(x) Lessee's Responsibility.

In addition to and without limitation as to the following subparagraph (xi) or any other term or provision of the Lease, including this Third Supplement, the Lessee shall be solely responsible for any and all fines, penalties, assessments, or levies assessed due to deviation from or violation of the JFK SPDES Permit or of the Lessee's authorization to discharge stormwater in

the performance of the Construction Work during construction or of any other applicable permit, plan, authorization or permission. All design planning shall be in conformance with the requirements and conditions of the JFK SPDES Permit, JetBlue Discharge Permit, Long Island Well Permit and applicable Environmental Requirements and of any other applicable permit, plan, authorization or permission, and the Lessee shall be responsible for complete compliance therewith.

(xi) Lessee's Assumption of Risk.

The Lessee shall assume all risks arising out of its performance of dewatering and discharging of effluent at any portion or area of the Premises under the JFK SPDES Permit or of any other applicable permit, plan, authorization or permission and, without limitation as to the generality of any other term or provision contained in this Third Supplement, the Lessee shall indemnify, hold harmless and reimburse the Port Authority, its Commissioners, officers, employees, agents and representatives from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses, including without limitation legal costs and expenses incurred in connection with the defense of) all claims and demands, penalties, fines, liabilities (including without limitation strict liability), settlements, attorney and consultant fees, investigation and laboratory fees, cleanup and Remediation costs, court costs and litigation expenses, damages, judgments, losses, costs and expenses including, without limitation, claims for personal injury, including death, property damage and natural resources damage, of whatsoever kind or nature and whether known or unknown, contingent or otherwise, just or unjust, groundless or foreseeable or otherwise arising or alleged to arise out of, or in any way related to the Lessee's performance of dewatering or any discharging at any portion of the Premises or the Airport or the use of the JFK SPDES Permit by the Lessee or of any other applicable permit, plan, authorization or permission. If so directed, the Lessee shall at its own expense defend any suit based upon the foregoing, and in handling such it shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.

(aa) Completion.

(1) Certifications and Inspection. When the Construction Work is substantially completed and ready for use, the Lessee shall advise the Port Authority to such effect and shall deliver to the Port Authority: [a] a certificate signed by an authorized officer of the Lessee certifying that the Construction Work has been constructed in accordance with the approved plans and specifications and the provisions of this Third Supplement and in compliance with all applicable law; [b] a certificate signed and sealed on behalf of the Project Engineer by a New York State licensed architect on its staff certifying that the approved plans and specifications are in compliance with all applicable law; and [c] a certificate signed and sealed on behalf of the Project Engineer by a New York State licensed engineer on its staff certifying that the Construction Work has been constructed in accordance with the approved plans and specifications. Thereafter, the Port Authority shall promptly commence inspection of the Construction Work and if the same has been completed as certified by the Lessee and on behalf of the Project Engineer by a licensed architect or engineer on its staff, a certificate to such effect shall be delivered to the Lessee, subject to the condition that all risks thereafter with respect to the construction and installation of the same and any liability therefor for negligence or other reason shall be borne by the Lessee. Subject to the subparagraph

of this Section, entitled "Partial Completion", the Lessee shall not use or permit the use of the Construction Work or any portion thereof for the purposes set forth in this Third Supplement until such certificate is received from the Port Authority.

(2) As-Built. The Lessee agrees that it shall deliver to the Port Authority upon completion of the T5i Project-Phase 1 two (2) sets of "as built" drawings of the Construction Work in an electronic CADD data file in a format to be designated by the Port Authority, all of which shall conform to the specifications of the Port Authority (the receipt of a copy of said specifications prior to the execution of this Third Supplement being hereby acknowledged by the Lessee), together with two (2) complete hard copies of such drawings, all engineering reports, engineering analysis, boring logs, survey information and engineering design calculations and operation and maintenance manuals in a comprehensive, coordinated package. The Lessee shall during the term of this Third Supplement maintain, and provide to the Port Authority upon request, a set of current Construction Documents showing thereon any changes or modifications which have been made.

(bb) Partial Completion.

Notwithstanding the provisions of the foregoing Paragraph (aa), entitled "Completion", when a discrete, integral and material portion of the Construction Work is substantially completed or is properly usable, the Lessee may advise the Port Authority to such effect and may deliver to the Port Authority: [a] a certificate signed by an authorized officer of the Lessee certifying that such portion of the Construction Work has been constructed in accordance with the approved plans and specifications and the provisions of this Third Supplement and in compliance with all applicable law; [b] a certificate signed and sealed on behalf of the Project Engineer by a New York State licensed architect on its staff certifying that the approved plans and specifications are in compliance with all applicable laws; and [c] a certificate signed and sealed on behalf of the Project Engineer by a New York State licensed engineer on its staff certifying that such portion of the Construction Work has been constructed in accordance with the approved plans and specifications. The Lessee shall also certify that such portion of the Construction Work can be properly used even though the Construction Work has not been completed and that the Lessee desires such use. The Port Authority may permit the Lessee to use such portion for the purpose set forth in this Third Supplement taking into consideration that one purpose of the construction staging and scheduling is to permit the continuous operation of the Premises as an air terminal facility and to minimize disruption to passengers, tenant airlines and concessionaires while proceeding as promptly as possible to completion of the construction of T5i Project-Phase 1. Accordingly, the Port Authority shall take into consideration the said purpose in reviewing any request by the Lessee for the issuance of a certificate to the Lessee with respect to each discrete, integral and material portion of the Construction Work permitting the Lessee to use such portion thereof for the purposes set forth in this Third Supplement. In the event the Port Authority issues such certificate, the Lessee may use such discrete, integral and material portion subject to the condition that all risks thereafter with respect to the construction and installation of the same and any liability therefor for negligence or other reason shall be borne by the Lessee, and subject to the risks as set forth above in the paragraph relating to Partial Approval Work.

(cc) Audit by Port Authority.

In addition to and without limiting any other term or provision of this Third Supplement, the Port Authority shall have the right from time to time and at any time by its agents,

employees and representatives to audit and inspect during regular business hours the books, records and other data of the Lessee and its General Contractor relating to the costs of the Construction Work for T5i Project-Phase 1, or any other portion thereof, and any and all invoices covering or relating to the Construction Work, or any portion thereof; it being understood that the Port Authority shall not be bound by any prior audit connected with it. The Lessee agrees to keep such books, records and other data within the Port of New York District.

(ee) Environmental Costs Generally.

The Lessee shall be solely and fully responsible for the performance, payment and costs of any and all of the Remediation for or in connection with T5i Project-Phase 1, including all of such that relate to the Terminal 6 Additional Premises, except as expressly provided to the contrary in Paragraph (y), above, concerning the Port Authority's responsibility for certain incremental Tipping Fees associated with T5 Petroleum Contaminated Soil, if any, and/or Port Authority approved Incremental Dewatering Costs, if any, and except as may be expressly provided to the contrary in the Lease, as amended (inclusive of those provisions of Lease No. AYD-265 which survived the expiration thereof), or as otherwise expressly provided in this Third Supplement.

(ff) Certain Definitions.

In this Paragraph 8, defined terms that may have been used as defined terms also under the Lease, First Supplement or Second Supplement, e.g., "Comprehensive Plan", "Construction Work", "Completion Date" and "Construction Application" shall refer only to the T5i Project-Phase 1. Other defined terms, e.g., "Hazardous Substances", "Environmental Requirement" and "DEC" shall have the meaning ascribed to them in the Lease, as amended.

9. Supplements to Exhibit 56.1 of the Lease.

Exhibit 56.1 to the Lease, entitled "Initial Post Construction Baseline Investigation", shall be supplemented in acknowledgement of the completion of reports after the execution of the Lease. Accordingly, the following documents, attached hereto, shall be added to Exhibit 56 and incorporated by reference to the Lease: (a) the "Terminal 5 Initial Post Construction Baseline Investigation Report", November 2009, prepared for the Lessee by LiRo Engineers, Inc. (referred to and marked as "Exhibit 56.1A"); and (b) "John F. Kennedy International Airport Terminal 5, DEC Spill No. 9010043, Remedial Action WorkPlan, June 2001" (referred to and marked as "Exhibit 56.1B").

10. Amendment to Paragraph 12(l) of the Second Supplement.

(a) New Spill (" **Spill 1114383** ")

The parties acknowledge that, subsequent to the effective date of the Second Supplement, (i) during completion of the Parcel T Termination Baseline, contamination was discovered by the Lessee at the Terminal 6 Additional Premises that was reported to the DEC and assigned the number Spill 1114383, and (ii) during completion of hydrant fueling system closure work, further contamination was discovered by the Port Authority at the Terminal 6 Additional Premises that was also reported to the DEC, and added to the number Spill 1114383. Any obligations

of the Lessee's with respect to the Remediation of Spill 1114383 are as set forth in the Lease, as amended, but all such obligations shall be completed on or before the Completion Date, except only for such ongoing monitoring for natural attenuation, and any other remediation work expressly permitted to take place after the Completion Date, as is described in an environmental Remediation action work plan approved in writing by the Port Authority and authorized by the DEC. All obligations which are those of the Lessee under the Lease would also include responsibility to obtain a NFA status with respect to such Spill 1114383 and responsibility for all costs associated with any ongoing and/or long-term monitoring, reporting and closure activities relating to or resulting from such spill, both before and after the Completion Date. The obtaining of a NFA status would include the completion of all necessary remedial actions, monitoring and reporting necessary to obtain such NFA status.

(b) Subsequent to the execution of the Second Supplement, the parties acknowledge that the Port Authority closed the hydrant fueling system at the Terminal 6 Additional Premises. In connection with such closure, reference is made to paragraph 12(l) of the Second Supplement and, specifically, the Exit Baseline Environmental Site Assessment for Parcel T. The parties agree that the "Hydrant Fueling System Closure Report, Terminal 6 John F. Kennedy International Airport, June 2012", prepared by Arcadis U.S., attached hereto and incorporated by reference herein, shall be deemed added to the Exit Baseline Environmental Site Assessment for Parcel T.

(c) Without modifying any obligations the parties may have under the Lease as of the Effective Date to undertake exit baselines or perform Remediation, the parties intend that in the event that after the Effective Date the Non-Buildout Take Back Parcel or the TH Hardstand Area is recaptured by the Port Authority from the Lessee as contemplated hereunder, and/or either of such parcels is thereafter re-transferred to the Lessee so as to be re-included as part of the Premises as contemplated hereunder, the party whose occupancy of the subject parcel is being terminated shall conduct a collection of sub-surface investigative data (which would include, without limitation, groundwater and soil samples) at the subject parcel as of the date of recapture or re-transfer, as the case may be. The results of such collection shall promptly be shared with the party which is taking occupancy of the subject parcel. The foregoing obligation to conduct a collection of sub-surface investigative data shall not apply with respect to the MTA Parcel.

11. Surrender of Parcel MTA from the Terminal 6 Additional Premises; Substitution of Exhibit AA.

(a) Effective May 30, 2012 (for purposes of this paragraph being called the "**Parcel MTA Surrender Date**"), the Lessee shall and be deemed to have granted, bargained, sold, surrendered and yielded up and by these presents have granted, bargained, sold, surrendered and yielded up unto the Port Authority, its successors and assigns, forever, its rights in Parcel MTA and the term of years with respect thereto under the Lease as amended herein yet to come and shall and be deemed to have given, granted, surrendered and by these presents does give, grant and surrender to the Port Authority, its successors and assigns, all the rights, rights of renewal, licenses, privileges and options of the Lessee granted by the Lease as amended herein with respect to Parcel MTA, all to the intent and purpose that the said Terminal 6 Additional Premises Term under the Lease as amended herein and the said rights of renewal, licenses, privileges and options may be wholly merged, extinguished and determined on the Parcel MTA Surrender Date, with the same force and effect as if the said Terminal 6 Additional Premises Term were in and by the provisions of the Lease, as amended herein, originally fixed to expire on the Parcel MTA Surrender Date with respect to

Parcel MTA, but the Lease and the letting thereunder, as amended herein, shall continue in full force and effect as to the remainder of the Premises under the Lease as amended herein and in accordance with all the terms and provisions thereof,

(b) The Lessee hereby covenants on behalf of itself, its successors and assigns that (x) it has not done or suffered and will not do or suffer anything whereby Parcel MTA or the Lessee's leasehold therein, has been or shall be encumbered as of the Parcel MTA Surrender Date in any way whatsoever; (y) the Lessee is and will remain until the Parcel MTA Surrender Date the sole and absolute owner of the leasehold estate in Parcel MTA and of the rights, rights of renewal, licenses, privileges and options granted by the Lease as amended herein with respect thereto and that the same are and will remain until the Parcel MTA Surrender Date free and clear of all liens and encumbrances of whatsoever nature; and (z) the Lessee has full right and power to make this agreement.

(c) All promises, covenants, agreements and obligations of the Lessee with respect to Parcel MTA which under the provisions thereof would have matured upon the date originally fixed in the Lease for the expiration of the Terminal 6 Additional Premises Term, or upon the termination of the letting of the Terminal 6 Additional Premises under the Lease prior to the said date, or within a stated period after expiration or termination shall, notwithstanding such provisions, mature upon the Parcel MTA Surrender Date.

(d) As of the Parcel MTA Surrender Date, the Lessee shall and shall have released and discharged and does by these presents release and discharge the Port Authority from any and all obligations on the part of the Port Authority to be performed under the Lease as amended herein with respect to Parcel MTA from and after the Parcel MTA Surrender Date. The Port Authority does by these presents release and discharge the Lessee from any and all obligations on the part of the Lessee to be performed under the Lease as amended herein with respect to Parcel MTA for that portion of the Terminal 6 Additional Premises Term subsequent to the Parcel MTA Surrender Date; it being understood that nothing herein contained shall release, relieve or discharge the Lessee from any liability for rentals or for other charges that may be due or become due to the Port Authority for any period or periods prior to the Parcel MTA Surrender Date, or for breach of any other obligation on the Lessee's part to be performed under the Lease as amended herein for or during such period or periods or maturing pursuant to the foregoing paragraph, nor shall anything herein be deemed to release the Lessee from any liability for rentals or other charges that may be due or become due to the Port Authority for any other portion of the Terminal 6 Additional Premises or for breach of any other obligation on the Lessee's part to be performed under the Lease as amended herein.

(e) The Lessee hereby agrees that it was obligated to terminate its occupancy of Parcel MTA and to deliver actual, physical possession of Parcel MTA to the Port Authority, on or before the Parcel MTA Surrender Date, in the condition required by the Lease upon surrender. The Lessee further agrees that it was obligated to remove all of the Lessee's personal property from Parcel MTA prior to the Parcel MTA Surrender Date, and all the terms and conditions of Section 29 of the Lease with respect to termination of the letting shall apply to any of the Lessee's personal property not so removed.

(f) The Lessee hereby acknowledges that each and every term, provision and condition of the Lease as amended herein shall continue to apply to the Premises (including without limitation the Terminal 6 Additional Premises) remaining after the termination of Parcel MTA.

(g) From and after the day immediately following the Parcel MTA Surrender Date, in accordance with Paragraph 9 of Supplement 2, and providing the Lessee has fully vacated such area, the Lessee shall be entitled to an abatement of the Terminal 6 Basic Rental set forth in Paragraph 6 of the Second Supplement (as adjusted in accordance with Paragraph 7 of the Second Supplement) for the entirety of Parcel MTA on a per square foot basis. The right of abatement shall be subject to paragraph (i), below, of this Paragraph.

(h) Exhibit AA, attached to the Second Supplement, shall be deemed deleted as of the Parcel MTA Surrender Date and shall be substituted with a new Exhibit AA, attached to the Third Supplement and hereby made a part hereof.

(i) In the event the Port Authority and the Lessee hereinafter enter into written agreements to modify the Lease in order to implement T5i Project-Phase 2, and, if agreed upon, T5i Project-Phase 3, such agreement(s) shall provide for the re-inclusion, as part of the Premises under the Lease, of Parcel MTA, in connection with T5i Project-Phase 2 or T5i Project-Phase 3, as applicable, unless the parties agree otherwise. The terms and conditions of such re-inclusion shall be memorialized in said written agreement(s), as applicable. The parties acknowledge that they will need to work cooperatively so as to give the Metropolitan Transportation Authority adequate notice of the proposed re-inclusion. Terminal 6 Basic Rental shall be due with respect to the area represented by Parcel MTA in the event it is re-included in the Premises.

12. Amendments to Section 43

Effective as of the T5i Project-Phase 1 DBO, paragraphs (a)(5), (a)(6), (c)(ii), (d) and (g)(1) of Section 43 of the Lease, entitled “ *Additional Rights of Termination of the Port Authority as to Portions of the Premises* ”, shall be amended as follows:

(a) Paragraphs (a)(4), (a)(5), and (a)(6) shall be deleted and in lieu thereof the following is inserted in Paragraph (a): “(4)for the fourth full calendar year occurring after the First Commencement Period and each and every calendar year thereafter the Lessee’s Commencement Basic Schedule shall mean the Revenue Seats Daily Average for the third calendar year occurring after the Completion Date.”

(b) Paragraph (c) shall be revised to read as follows:

“(c) If as of the first January 1st occurring after the First Commencement Period, and as of the January 1st of each succeeding calendar year (i) the Lessee’s Basic Schedule for the immediately preceding calendar year for the Airport is less than seventy-five percent (75%) of the Lessee’s Commencement Basic Schedule for such year or (ii) because of reasons beyond the control of the Lessee the Lessee’s Basic Schedule for the immediately preceding three calendar years is less than seventy-five percent (75%) of the Lessee’s Commencement Basic Schedule, then in either of such events set forth in the foregoing clauses (i) and (ii) and in addition to and without limiting each and every other right the Port Authority has under this Agreement or otherwise, the Port Authority shall have additional rights exercisable

at its sole option, upon six (6) months written notice to the Lessee, (i) to require the Lessee (and the Lessee hereby agrees) to make available Accommodations at the Premises as directed by the Port Authority in the amount and to the extent set forth in paragraph (g) hereof to Aircraft Operators (each a “ *Section 43 Notice to Provide Accommodations* ”); or (ii) to terminate the letting under the Lease as to such number of Gates and all Gate Related Premises applicable thereto (each a “ *Section 43 Gate Termination Notice* ”) set forth in paragraph (g) hereof; or (iii) to serve both a Section 43 Notice to Provide Accommodations and a Section 43 Gate Termination Notice as to any combination of the Gates (and all Gate Related Premises applicable thereto)) set forth in paragraph (g) hereof.”

(c) Paragraph (d)(1) shall be revised to read as follows:

“(d) Accommodations :

(1) The Lessee’s obligation under this Section 43 to provide Accommodations to Scheduled Aircraft Operators shall be effective on the date set forth in each Section 43 Notice to Provide Accommodations from the Port Authority to such effect, as aforesaid. Upon such Section 43 Notice to Provide Accommodations the Lessee shall use its best efforts to secure an arrangement with a Scheduled Aircraft Operator as directed by the Port Authority for Accommodations in the Premises and shall in good faith negotiate with any such Scheduled Aircraft Operator as the Port Authority shall direct for Accommodations in the Premises, all in accordance herewith. With respect to each Section 43 Notice to Provide Accommodations served on the Lessee by the Port Authority, the Lessee shall make such Accommodations, as specified in the Section 43 Notice to Provide Accommodations, available from time to time during the entire period commencing on the effective date set forth in the aforesaid Section 43 Notice to Provide Accommodations and ending when the Lessee’s Basic Schedule for a calendar year, determined in accordance with the foregoing shall have been seventy-five percent (75%) or more of the Lessee’s Commencement Basic Schedule (a “*Period of Underutilization* ”).”

(d) Paragraph (g)(1) shall be revised to read as follows:

“(g)

(1) Column A Column B

Percentage of the Lessee’s Basic Schedule Compared to Lessee’s Commencement Basic Schedule	Number of Gate Positions the Port Authority May Require Accommodations at the Premises and/or May Terminate from the Premises
74%	8
66%	10
59%	12
51%	14
43%	17

35%	19
27%	21
19%	23
10%	26
0%	29”

13. Potential Eligibility of Ramp Area Improvement Work for PFC’s

The following shall apply with respect to the Lessee’s capital investment of no less than \$8,000,000.00 to complete the T5-T7 Ramp Improvement Work. The location at which the T5-T7 Ramp Improvement Work takes place shall be referred to as the “ **T5-T7 Ramp Improvement Site** ”.

(a) Notwithstanding the Lessee’s obligation to make the capital investment and complete the T5-T7 Ramp Improvement Work, the Port Authority may decide in its sole and absolute discretion to submit an application to the Federal Aviation Administration (“FAA”) to obtain approval to apply PFC funds in connection with PFC-eligible construction work performed by the Lessee as part of the T5-T7 Ramp Improvement Work, it being understood that the same shall exclude, in all events, the following:

(i) any non-PFC eligible financing cost component of such work;

(ii) any costs and expenses associated with Remediation of Hazardous Substances and other environmental-related liabilities and obligations for which the Lessee is responsible under the Lease or otherwise;

(iii) any improvement at the Airport which was PFC-funded and as to which the useful life has not expired; and

(iv) any component of construction work that is performed on or at any portion of the Premises other than the Terminal 6 Additional Premises.

The foregoing exclusion from any PFC application of the Port Authority and any PFC funds received in connection with such application includes therefore, without limitation, (x) all costs and expenses associated with closing open spills at the location of, or in order to complete, the T5-T7 Ramp Improvement Work and (y) all other Remediation which is occasioned by, arises out of, or relates to the T5-T7 Ramp Improvement Work, whether above-ground or below-ground.

(b) PFC-eligible construction work performed by the Lessee at the T5-T7 Ramp Improvement Site in connection with the T5-T7 Ramp Improvement Work that may be funded by PFCs if applied for, and if FAA-approved to be paid or reimbursed through PFCs, shall be called “ **Eligible PFC Construction Work** ”. In this connection, the Lessee acknowledges that, as of the date of this Third Supplement, there are other projects at Port Authority facilities as to which PFC funding has previously been deemed eligible and which have received approval from the FAA and, subsequent to this Third Supplement but prior to the time of completion of any Eligible PFC Construction Work, there likely shall be other projects at Port Authority facilities as to which PFC funding is deemed eligible and which are submitted by the Port Authority for approval from the FAA. The Port Authority shall determine the appropriate amount to reimburse the Lessee for any Eligible PFC Construction Work in its sole and absolute discretion.

(c) Without limiting the generality of the foregoing paragraph and the sole and absolute discretion that may be exercised by the Port Authority in connection with any application for PFC funds for any portion of the Eligible PFC Construction Work, as a condition precedent to any reimbursement whatever to the Lessee of the Eligible PFC Construction Work through the application of PFC funds, the Lessee shall be obligated to first submit to the Port Authority a report and request for reimbursement of expenditures related to Eligible PFC Construction Work, inclusive of such back-up documentation and detail as shall be acceptable to the Port Authority.

The following shall apply with regard to the back-up documentation and detail referred to in the preceding paragraph. In each case, amounts and payments shall be evidenced by certificates of a responsible fiscal officer of the Lessee, sworn to before a notary public and delivered to the Port Authority, which certificates shall (i) set forth, in reasonable detail and in appropriate format as may be required, in the judgment of the Port Authority, for PFC purposes, the amounts paid to specified independent contractors, the payments made to other specified persons and the other expenses incurred by the Lessee, which have not previously been reported in certificates delivered to the Port Authority, (ii) have attached thereto reproduction copies or duplicates originals of the invoices of such independent contractors and other persons acknowledging the receipt by them of such amounts and payments, and (iii) certify that the amounts and payments therein set forth constitute the Lessee's capital investment arising out of the performance of the T5-T7 Ramp Improvement Work. The Lessee shall keep a separate accounting of the Lessee's T5-T7 Ramp Improvement Work capital investment which accounting shall be kept at all times within the Port of New York District for a period of two (2) years after the final costs of all the construction work have been submitted by the Lessee to the Port Authority or the end of the term of the letting, whichever is later, and shall be subject to the audit and inspection of the Port Authority, its representatives and employees.

(d) The Lessee expressly agrees that it shall not, directly or through a third party, request Port Authority financing or other funding from the Port Authority (whether in the form of construction reimbursement, loans, rent offsets, rent credits, or otherwise) for any portion of the Construction Work, including, without limitation, the T5-T7 Ramp Improvement Work, and the Port Authority shall not be obligated to consider, respond to, negotiate with Lessee as to, or seek approval of its Board of Commissioners in connection with, any such request; provided, however, the Port Authority acknowledges the existence of a letter, dated February 9, 2010, to the Lessee, signed by the New York City Economic Development Corporation and the Port Authority, generally concerning the option of financing the Lessee's "project to expand Terminal 5 and/or redevelopment of Terminal 6" through either or both of the New York City Industrial Development Agency or the Port Authority contingent upon the Lessee satisfying the several conditions precedent stated in such letter and nothing in this Third Supplement constitutes a modification of such letter.

It is expressly understood and agreed by the Lessee that the sole source of reimbursement by the Port Authority for any costs and expenses incurred by it for any portion of the T5-T7 Ramp Improvement Work shall be from PFC funds, and only if and to the extent the Port Authority seeks such PFC funds and to the extent the same is approved by the FAA. Further, the Lessee expressly agrees that it is obligated to perform and complete the T5-T7 Ramp Improvement Work in a timely and diligent manner in accordance with the Lease, as amended by this Third Supplement, at its sole cost and expense, regardless of when or whether the Port Authority submits

an application for PFC Funds as described in this Paragraph and regardless of when or whether the FAA determines whether or not there is any Eligible PFC Construction Work.

14. Amendment to Section 92 of the Lease

Section 92 of the Lease, entitled “ *Security Agreements* ”, shall be amended to revise the definition of Maximum Security Amount in paragraph (c)(1)(ii) thereof to provide as follows:

“(ii) “ *Maximum Security Amount* ” shall mean with respect to each calendar year, an amount equal to the quotient obtained by dividing the sum of the following rentals payable during such calendar year (after taking into account all abatements and credits applicable thereto for such calendar year) by the whole number 6:

- (aa) First Ground Rental,
- (bb) Second Ground Rental,
- (cc) Third Ground Rental,
- (dd) Fourth Ground Rental,
- (ee) Temporary Facility Ground Rental,
- (ff) First Enplanement Rental,
- (gg) Second Enplanement Rental,
- (hh) First Additional Rental,
- (ii) Third Additional Rental,
- (jj) Fourth Additional Rental,
- (kk) Fifth Additional Rental,
- (ll) T6 Basic Rental, and
- (mm) T5 Facility Rental

as the same, solely for the purpose of determining the Maximum Security Amount, may be estimated prospectively for any calendar year by the Port Authority based upon any reasonable basis as shall be determined by the Port Authority.”

15. Expiration or Termination of TAA Letter Agreement. The TAA Letter Agreement shall terminate contemporaneously with the full execution, and effectiveness, of this Third Supplement, it being understood and agreed that any and all obligations and liabilities of the Lessee

which accrued during the term of such TAA Letter Agreement shall survive the expiration or termination of such agreement.

16. **Governing Law.** This Third Supplement and any claim, controversy or dispute arising under or related to this Third Supplement, the Lease and the letting thereunder shall be governed by, and be construed in accordance with, the laws of the State of New York applicable to contracts made, and to be performed solely within, such state, without regard to choice of law principles.

17. **Brokers' Commissions.** Each party represents and warrants that to the other party that no broker has been concerned in the negotiation of this Third Supplement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. Each party shall indemnify and save harmless the other party of and from all claims for commissions or brokerage fees made by any and all persons, firms or corporations whatsoever for services provided to the indemnifying party in connection with the negotiation or execution of this Third Supplement.

18. **Personal Liability.** No Commissioner (as applicable), officer, director, agent, representative or employee of any party to this Third Supplement shall be charged personally, or held contractually liable by or to any other party, under any term or provision of this Third Supplement, or because of its or their execution or attempted execution, or because of any breach or attempted or alleged breach thereof.

19. **Lease in Full Force and Effect.** As hereby amended, all of the terms, provisions, covenants and conditions of the Lease are incorporated herein by reference and shall continue in full force and effect.

20. **Entire Agreement; Amendment.** This Third Supplement, together with the Lease (to which it is supplementary), constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended, except by instrument in writing duly executed on behalf of both the Port Authority and the Lessee. The Lessee agrees that no representations or warranties shall be binding upon the Port Authority, unless expressed in writing in the Lease or this Third Supplement.

This Third Supplement consists of pages 1 to 56 and contains the following exhibits and schedules:

Exhibit AA

Exhibit TH

Exhibit GG

Exhibit MTA

Exhibit 56.1A

Exhibit 56.1B

Schedule A

Schedule E – Affirmative Action-Equal Opportunity-Minority Business Enterprises-Women-Owned Business Enterprises Requirements

IN WITNESS WHEREOF, the Port Authority and the Lessee have executed these presents as of the date first above written.

ATTEST: THE PORT AUTHORITY OF NEW
YORK AND NEW JERSEY

/s/ LINDA C. HANDEL By: /s/ DAVID KAGAN
Deputy Secretary, PANYNJ

Name: DAVID KAGAN

Assistant Director

Title:

ATTEST: JETBLUE AIRWAYS CORPORATION

/s/ KEVIN J. COSTELLO By: /s/ RICHARD J. SMYTH
Director, Properties & Airport Affairs

Name: RICHARD J. SMYTH

Title: VP, Corporate Real Estate

SCHEDULE E

AFFIRMATIVE ACTION-EQUAL OPPORTUNITY---MINORITY BUSINESS
ENTERPRISES ---WOMEN-OWNED BUSINESS ENTERPRISES REQUIREMENTS

PART I. Affirmative Action Guidelines - Equal Employment Opportunity

I. As a matter of policy the Port Authority hereby requires the Lessee and the Lessee shall require the Contractor, as hereinafter defined, to comply with the provisions set forth hereinafter in this Schedule E in connection with Port Authority Agreement No. AYD-350 (herein called the "Lease") with JetBlue Airways Corporation (herein and in the Lease called the "Lessee"). The provisions set forth in this Part I are similar to the conditions for bidding on federal government contract adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

The Lessee as well as each bidder, contractor and subcontractor of the Lessee and each subcontractor of a contractor at any tier of construction (herein collectively referred to as the "Contractor") must fully comply with the following conditions set forth herein as to each construction trade to be used on the construction work or any portion thereof (said conditions being herein called "Bid Conditions"). The Lessee hereby commits itself to the goals for minority and female utilization set forth below and all other requirements, terms and conditions of the Bid Conditions. The Lessee shall likewise require the Contractor to commit itself to the said goals for minority and female utilization set forth below and all other requirements, terms and conditions of the Bid Conditions by submitting a properly signed bid.

II. The Lessee and the Contractor shall each appoint an executive of its company to assume the responsibility for the implementation of the requirements, terms and conditions of the following Bid Conditions:

(a) The goals for minority and female participation expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work are as follows:

(1) Minority participation

Minority, except laborers	30%
Minority, laborers	40%

(2) Female participation

Female, except laborers	6.9%
Female, laborers	6.9%

These goals are applicable to all the Contractor's construction work performed in and for the Premises.

The Contractor's specific affirmative action obligations required herein of minority and female employment and training must be substantially uniform throughout the

length of the contract, and in each trade, and the Contractor shall make good faith efforts to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract. Compliance with the goals will be measured against the total work hours performed.

(b) The Contractor shall provide written notification to the Lessee and the Lessee shall provide written notification to the Port Authority's Aviation Department and Office of Diversity and Civil Rights within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

(c) As used in these specifications:

(1) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941:

(2) "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(d) Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the construction work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 those provisions which include the applicable goals for minority and female participation.

(e) The Contractor shall implement the specific affirmative action standards provided in subparagraphs (1) through (16) of Paragraph (h) hereof. The goals set forth above are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the Premises. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

(f) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations hereunder.

(g) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

(h) The Contractor shall take specific affirmative actions to ensure equal employment opportunity ("EEO").

The evaluation of the Contractor's compliance with these provisions shall be based upon its good faith efforts to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

(1) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each phase of the construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other supervisory personnel at the Premises are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at the Premises.

(2) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

(3) Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

(4) Provide immediate written notification to the Lessee when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

(5) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading

programs and apprenticeship and training programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under subparagraph (2) above.

(6) Disseminate the Contractor's EEO Policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the Contractor's newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the Contractor's EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

(7) Review, at least every six months the Contractor's EEO policy and affirmative action obligations hereunder with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decision including specific review of these items with on-terminal supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at the Premises. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

(8) Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

(9) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations and to State-certified minority referral agencies serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

(10) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the Premises and in areas of a Contractor's workforce.

(11) Tests and other selecting requirements shall comply with 41 CFR Part 60-3.

(12) Conduct, at least every six months, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

(13) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations hereunder are being carried out.

(14) Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

(15) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least every six months, of all supervisors' adherence to and performance under the Contractors' EEO policies and affirmative action obligations.

(i) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under Paragraph (h) hereof provided that: the Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific minority group of women is underutilized).

(k) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.

(l) The Contractor shall not enter into any subcontract with any Person or firm debarred from Government contracts pursuant to Executive Order 11246.

(m) The Contractor shall carry out such sanctions and penalties for violation of this clause including suspension, termination and cancellation of existing

subcontracts as may be imposed or ordered by the Lessee. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative actions steps, at least as extensive as those standards prescribed in paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, the Lessee shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(p) Nothing herein provided shall be construed as a limitation upon the application of any laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(q) Without limiting any other obligation, term or provision under the Lease, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Port Authority.

PART II. MINORITY BUSINESS ENTERPRISES AND WOMEN - OWNED BUSINESS ENTERPRISES

As a matter of policy the Port Authority requires the Lessee and the Lessee shall itself and shall require that any Contractor utilized by the Lessee to perform contract work ("the work") on the premises including without limitation construction work to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the work pursuant to the provisions of this Schedule E. For purposes hereof, "Minority Business Enterprise" "(MBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, "Women-owned Business Enterprise" "(WBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by women and such ownership is real, substantial and continuing. A minority shall be as defined in paragraph II(c) of Part I of this Schedule E. "Meaningful participation" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including

subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

- (a) Dividing the work to be subcontracted into smaller portions where feasible.
- (b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female contractor associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.
- (c) Making plans and specifications for prospective construction work available to MBEs and WBEs in sufficient time for review.
- (d) Utilizing the list of eligible MBEs and WBEs maintained by the Port Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors.
- (e) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that the Lessee and Contractor will meet their obligations hereunder.
- (f) Insuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis, preferably bi-weekly, and that retainage is paid to MBEs and WBEs when they have completed their work.
- (g) Not requiring bonds from and/or providing bonds and insurance for MBEs and WBEs, where appropriate.
- (h) Requiring each contractor to submit to the Lessee with each payment request evidence that all MBE and WBE Contractors have been paid in accordance with their contract.

Certification of MBEs and WBEs hereunder shall be made by the Office of Diversity and Civil Rights of the Port Authority. If the Contractor wishes to utilize a firm not already certified by the Port Authority, it shall submit to the Port Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Port Authority. All such requests shall be in writing addressed to the Office of Diversity and Civil Rights, the Port Authority of New York and New Jersey, 233 Park Avenue South, 4th Floor, New York, New York 10003 or such other address as the Port Authority may specify by notice to the Lessee. Certification shall be effective only if made in writing by the Director in charge of the Office of Diversity and Civil Rights of the Port Authority. The determination of the Port Authority shall be final and binding.

The Port Authority has compiled a list of the firms that the Port Authority has determined satisfy the criteria for MBE and WBE certification. This list may be supplemented and revised from time to time by the Port Authority. Such list shall be made available to the Contractor upon request. The Port Authority makes no representation as the financial responsibility of such firms, their technical competence to perform, or any other performance-related qualifications.

Only MBE's and WBE's certified by the Port Authority will count toward the MBE and WBE goals.

Please note that only sixty percent (60%) of expenditures to MBE or WBE suppliers will count towards meeting the MBE and WBE goals. However, expenditures to MBE or WBE manufacturer's (i.e. suppliers that produce goods from raw materials or substantially alter them before resale) are counted dollar for dollar.

DK
For the Port Authority

Initialed:

RS
For the Lessee

JETBLUE AIRWAYS CORPORATION
COMPUTATION OF RATIO OF EARNINGS TO FIXED CHARGES
(in millions, except ratios)

	Three Months Ended March 31,	
	2013	2012
Earnings:		
Income before income taxes	\$ 23	\$ 49
Less: Capitalized interest	(3)	(2)
Add:		
Fixed charges	64	69
Amortization of capitalized interest	1	1
Adjusted earnings	\$ 85	\$ 117
Fixed charges:		
Interest expense	\$ 39	\$ 43
Amortization of debt costs	2	2
Rent expense representative of interest	23	24
Total fixed charges	\$ 64	\$ 69
Ratio of earnings to fixed charges	1.32	1.68

Rule 13a-14(a)/15d-14(a) Certification of the Chief Financial Officer

I, Mark D. Powers, certify that:

1. I have reviewed this Annual Report on Form 10-K of JetBlue Airways Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 8, 2013

By: /s/ MARK D. POWERS
Chief Financial Officer

Rule 13a-14(a)/15d-14(a) Certification of the Chief Executive Officer

I, David Barger, certify that:

1. I have reviewed this Annual Report on Form 10-K of JetBlue Airways Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 8, 2013

By: /s/ DAVID BARGER

Chief Executive Officer

JetBlue Airways Corporation

SECTION 1350 CERTIFICATIONS

In connection with the Annual Report of JetBlue Airways Corporation on Form 10-K for the year ended March 31, 2013 , as filed with the Securities and Exchange Commission on May 8, 2013 (the "Report"), the undersigned, in the capacities and on the dates indicated below, each hereby certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) and the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of JetBlue Airways Corporation.

Date: May 8, 2013

By: /s/ DAVID BARGER
Chief Executive Officer

Date: May 8, 2013

By: /s/ MARK D. POWERS
Chief Financial Officer