

MARINE TERMINAL LEASE AND OPERATING AGREEMENT BETWEEN BROWARD COUNTY AND A.G. ROYCE METAL MARKETING, LLC d/b/a CONCRETE REINFORCING PRODUCTS

This Marine Terminal Lease and Operating Agreement ("Agreement") is made and entered into by and between Broward County, a political subdivision of the State of Florida ("County"), and A.G. Royce Metal Marketing, LLC d/b/a Concrete Reinforcing Products, a Florida limited liability company ("Lessee") (each a "Party" and collectively referred to as the "Parties").

RECITALS

- A. County owns and operates Port Everglades, a deep-water port located in Broward County, Florida.
- B. Lessee is a company engaged in the ocean-going transport of break-bulk cargo and operates out of Port Everglades.
- C. The Parties entered into a Marine Terminal Lease and Operating Agreement, dated September 22, 2021, with a term commencing on October 1, 2021, and ending on September 30, 2022 ("Prior Agreement").
- D. The Parties desire to enter into a new Marine Terminal Lease and Operating Agreement upon the terms and conditions set forth in this Agreement.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

- 1.1. **Board** means the Board of County Commissioners of Broward County, Florida.
- 1.2. **Business Days** means Monday through Friday of each week, exclusive of holidays, between the hours of 8:00 a.m. and 5:00 p.m. (Eastern).
- 1.3. **Port Department** means the County department established pursuant to Section 16.1 of the Broward County Administrative Code and responsible for administering and operating Port Everglades. All approvals by the Port Department required by this Agreement require the written approval of the Port Director or designee.
- 1.4. **Port Director** means the Chief Executive/Port Director of the Port Department.
- 1.5. **Port Everglades** or **Port** means the deep-water port located on the lower East Coast of the Florida peninsula at the adjoining city limits of the City of Fort Lauderdale, the City of Hollywood, and the City of Dania Beach, and all port facilities located thereon, as more specifically defined in the Tariff.

1.6. **Tariff** means Port Everglades Tariff Number 12, as may be amended, which is electronically filed with the U.S. Federal Maritime Commission, filed in the FMC-ATFI system, and located at <https://www.porteverglades.net/development/tariff>.

ARTICLE 2. PREMISES

2.1. **Premises.** Subject to the terms of this Agreement, County leases to Lessee ±3.94 acres of land located at 4699 McIntosh Road, Fort Lauderdale, Florida, together with all improvements thereon owned by County, as such real property is more particularly described in **Exhibit A** attached hereto and made a part hereof (collectively, the “Premises”).

2.2. **Condition of Premises.** County makes no representations or warranties whatsoever as to: (i) the condition of the Premises; or (ii) whether the Premises complies with applicable federal, state, and local laws, ordinances, rules, or regulations. The Premises is demised in “**AS IS CONDITION**” and “**WITH ALL FAULTS.**” Lessee represents, acknowledges, and agrees that it has had sufficient opportunity to inspect the Premises and accepts the Premises in “**AS IS CONDITION**” and “**WITH ALL FAULTS.**” Lessee releases County from any and all claims and liabilities relating to or on account of the condition of the Premises or any failure of any of its component parts to be in working order, as applicable.

2.3. **Use of Premises.** Lessee may use the Premises solely for the purpose of a modern ocean-going break-bulk cargo marine terminal yard facility with related office uses and all activities reasonably necessary for such use (“Approved Use”). Lessee shall conduct its operations in an orderly and commercially reasonable manner considering the nature of its operations.

2.4. **Prohibited Use(s) of Premises.** Lessee will not use, or allow or permit others to use, any portion of the Premises: (a) for any purpose whatsoever, other than for the Approved Use, without the prior written consent of the Port Director; (b) in competition with any business conducted by County; (c) in any way that may unreasonably annoy, disturb (whether via vibrations, noise, or otherwise), endanger, or be offensive to any other user or tenant at Port Everglades; (d) in any way that may commit waste or cause injury on or about the Premises; (e) in any way that may cause the creation of any nuisance from dust, smoke, obnoxious odors, fumes, vapors, noise, or otherwise; or (f) to keep or store any explosives without the required notification to and prior approval of the Broward Sheriff Office (“BSO”) Fire Rescue Department located at Port Everglades. Lessee will not conduct, or allow or permit others to conduct, any welding or burning on the Premises until all required permits from County, the City of Hollywood, Florida, and the U.S. Coast Guard have been obtained, as applicable. County will not unreasonably withhold the issuance of any welding or burning permits that are issued by County. Lessee shall provide the Port Department with evidence that it has obtained all required permits within one (1) day after the Port Department’s written demand therefor.

2.5. **Relocation.** If County desires that Lessee operate at different locations, additional locations, or in reduced space than the Premises reflected on **Exhibit A**, then upon ninety (90) days’ written notice from the Port Director, Lessee shall be required to occupy such different,

additional, or reduced areas, as the case may be, without expense to County. In the event of any change in the Premises as provided in this section, **Exhibit A** shall be automatically amended to reflect the revised Premises upon notice from the Port Director, and the Rent payable under this Agreement shall be adjusted at a rate of One and 30/100 Dollars (\$1.30) per square foot. Lessee acknowledges that such revised Premises might not be similar in size or configuration to the Premises.

ARTICLE 3. TERM

3.1. Effective Date. This Agreement shall become effective on the date it is executed by the last of the Parties executing this Agreement ("Effective Date").

3.2. Term. The term of this Agreement shall begin on October 1, 2022 ("Commencement Date"), and shall end on September 30, 2023 ("Term"), unless sooner terminated as provided herein.

ARTICLE 4. RENTALS, FEES, AND SECURITY DEPOSIT

4.1. Rent. During the Term, Lessee shall pay rent to County for the Premises on a monthly basis ("Rent"). Each monthly installment of Rent shall be in the amount of Eighteen Thousand Five Hundred Seventy-five and 68/100 Dollars (\$18,575.68), plus applicable sales taxes. Rent shall be due and payable, without billing, set-off, or deduction, commencing on the Commencement Date and on the first day of each calendar month thereafter.

4.2. Licenses, Fees, and Taxes. Lessee shall timely pay all federal, state, County, and local taxes and fees, and all special assessments of any kind, that are now or may hereafter be levied upon the Premises (including all Improvements, as defined in Article 5), the leasehold estate granted by this Agreement, the business conducted on the Premises, any of Lessee's property used in connection therewith, and/or upon any rents or other sums payable hereunder, including, but not limited to, any ad valorem taxes attributable to the Premises, sales or excise taxes on rents, and personal property taxes against Lessee's tangible or intangible personal property. Lessee shall maintain in full force and effect all federal, state, county, and local licenses, local business taxes, and permits required for Lessee's business operation.

4.3. Utilities.

4.3.1. Generally. Lessee, at its sole expense, shall be responsible for arranging for and paying for all utility services it requires for the Premises, including, but not limited to, electricity and water; provided, however, County shall provide water hook-ups and sewer hook-ups to the boundary of the Premises.

4.3.2. High-mast Lighting. County shall arrange and pay for electricity to the high-mast lights serving the Premises, but shall be reimbursed by Lessee for the cost of such electricity on a monthly basis ("High-Mast Electricity Fee"). The High-Mast Electricity Fee shall be a pro rata portion of the electricity fee paid by County for all high-mast lighting

on the applicable meter, and shall be due and payable by Lessee to County within thirty (30) days after each invoice for payment thereof. No failure, delay, or interruption in the supplying of electricity to the high-mast lighting shall be construed as an eviction of Lessee, or be grounds for any abatement of Rent or any claim by Lessee for damages.

4.4. Cargo Wharfage and Minimum Guaranteed Payment.

4.4.1. Cargo Wharfage. Commencing on the Commencement Date, all cargo wharfage charges for break-bulk steel cargo handled on the Premises over the Term shall be billed by County to Lessee at Three and 08/100 Dollars (\$3.08) per short ton ("Cargo Wharfage Charges") instead of at the rate published in the Tariff. All other applicable Tariff charges, including, but not limited to, charges for dockage, harbor master, security, and line handling services, shall be billed by County to Lessee at published Tariff rates. Lessee's payment of Cargo Wharfage Charges and all other Tariff charges are in addition to all other payments required to be made by Lessee under this Agreement, including, but not limited to, Rent and utility charges.

4.4.2. Reports. Lessee shall provide the manifests and cargo reports required by Item 915 of the Tariff in accordance with the terms of the Tariff, which as of the Effective Date requires manifests and cargo reports to be provided by Lessee to the Port Department within five (5) Business Days after a vessel call. Within five (5) Business Days after the end of each month, on the form attached hereto as **Exhibit B**, Lessee shall provide an additional report to the Port Department itemizing the total steel products tonnage throughput handled on the Premises by Lessee in the immediately preceding month and any other cargo reports/records requested by the Port Department to maintain its statistical database and calculate the Cargo Wharfage Charges.

4.4.3. Invoices. Cargo Wharfage Charges and all other Tariff charges, plus applicable Florida sales tax, will be billed by County to Lessee on a monthly basis, and shall be paid by Lessee to County within thirty (30) days after the date of each invoice.

4.4.4. Minimum Guaranteed Payment. Lessee guarantees that the Cargo Wharfage Charges paid by Lessee to County over the Term will meet or exceed Two Hundred Forty-six Thousand Four Hundred and 00/100 Dollars (\$246,400.00) (the "Minimum Guaranteed Payment" or "MGP"), which equates to Eighty Thousand (80,000) short tons of ocean-going break-bulk steel cargo being handled on the Premises. Within forty-five (45) days after the end of the Term, County shall invoice Lessee for the MGP shortfall, if any, which amount shall be paid by Lessee within thirty (30) days after the date of the invoice. The MGP shortfall is the difference between the total amount paid by Lessee to County for Cargo Wharfage Charges over the Term and the MGP amount of Two Hundred Forty-six Thousand Four Hundred and 00/100 Dollars (\$246,400.00). The requirements of this Section 4.4.4 shall survive the expiration or earlier termination of this Agreement.

4.5. Interest and Late Charges. If Lessee fails to timely pay any amounts due, Lessee's account shall be placed in "Delinquent Status" and Lessee shall pay County, in addition to the amount

otherwise due: (a) a finance charge of one and one-half percent (1.5%) for each month or portion thereof, starting thirty (30) days after the due date, that any invoice remains delinquent; and (b) a late charge equal to ten percent (10%) of any overdue amount if still unpaid fifteen (15) days after the due date. No acceptance by County of payments in whole or in part after a default by Lessee of any of the terms, covenants, or conditions hereof shall be deemed a waiver of any right on the part of County to collect the finance charge or late charge or terminate this Agreement. If placed in Delinquent Status, Lessee will be subject to the procedures set forth in Item 910 of the Tariff, as amended.

4.6. Dishonored Check or Draft. If County receives a dishonored check or draft in payment of any obligation arising under this Agreement, Lessee shall pay County a service charge in the amount established by County from time to time. In such event, and in addition to any other remedies available to County under this Agreement, at law or in equity, County may require that future payments be made by cashier's check or other means acceptable to County.

4.7. Weekends and Holidays. Should any payment due date fall on a weekend day or holiday, such payment shall be due and payable on the immediately preceding Business Day.

4.8. Place of Payments. All payments required to be made hereunder shall be made payable to Broward County and delivered to: Port Everglades, Attn: Finance Division, 1850 Eller Drive, Fort Lauderdale, Florida 33316, or to such other office or address as may be substituted by County therefor.

4.9. Security Deposit. As security for the payment of all monies due and the performance of Lessee's obligations under this Agreement, Lessee shall post a security deposit with County equal to Thirty-seven Thousand One Hundred Fifty-one and 36/100 Dollars (\$37,151.36) ("Security Deposit"). The Security Deposit shall be submitted to County simultaneously with submission to County of this Agreement as executed by Lessee. The Security Deposit shall be either in the form of cash, an irrevocable letter of credit ("Letter of Credit") in form and substance satisfactory to County, or a payment and performance bond ("Bond") in form and substance satisfactory to County. No interest shall be due or paid on the Security Deposit. County, upon at least fourteen (14) days' notice to Lessee, may increase the amount of the required Security Deposit to reflect any increases in monies due. In addition, County, upon at least fourteen (14) days' notice to Lessee, may increase the amount of the required Security Deposit if County determines, in its sole discretion, that an increase is warranted due to increased obligations under this Agreement or based upon Lessee's payment or performance history at the Port. In the event of any Event of Default (hereinafter defined), in addition to any other rights and remedies available to County at law or in equity, County shall be entitled to draw down up to the full amount of the Security Deposit and apply same to any and all amounts owed, whether before or after the expiration or earlier termination of this Agreement. Within five (5) Business Days after notice from County of any such draw, Lessee shall replenish the Security Deposit with cash, a new Letter of Credit, or new Bond, as applicable, so it equals the full amount of the required Security Deposit. If a Letter of Credit is posted, the initial term and all renewal terms of the Letter of Credit shall be for a period of not less than one (1) year, and the Letter of Credit shall be kept in full force and effect

throughout the Term and for a period of six (6) months following the expiration or earlier termination of this Agreement. If a Bond is posted, the Bond shall provide coverage and be kept in full force and effect throughout the Term and for a period of six (6) months following the expiration or earlier termination of this Agreement. If Lessee posts a cash deposit, then such cash deposit shall be retained by County throughout the Term and for a period of six (6) months following the expiration or earlier termination of this Agreement. Not less than one hundred twenty (120) days prior to any expiration date of the Letter of Credit or Bond, Lessee shall submit evidence in a form satisfactory to County that said security instrument has been renewed. Each Letter of Credit shall be provided by a financial institution authorized to do business in the State of Florida, having a resident agent in Broward County, and having been in business with a record of successful continuous operation for at least the immediately preceding five (5) years. Each Bond shall be executed by a surety company authorized to do business in the State of Florida, having a resident agent in Broward County, and having been in business with a record of successful continuous operation for at least five (5) years. Furthermore, such surety company must have at least an "A" rating in the latest revision of Best's Insurance Report. Any failure by Lessee to strictly comply with the terms of this section shall constitute an Event of Default, and the obligations of this section shall survive the expiration or earlier termination of this Agreement.

ARTICLE 5. IMPROVEMENTS

5.1 Required Approval. No improvements, alterations, additions, or renovations (collectively, "Improvements") may be constructed on the Premises unless Lessee obtains the prior written approval of the Port Department.

5.2 Required Contract Documents for Construction of Improvements. Prior to the commencement of construction of any Improvements, Lessee shall submit to the Port Department a complete set of the contract documents for approval by the Port Department (one (1) hard copy and one (1) .pdf format). Contract documents shall include, at a minimum, a site plan and complete plans and specifications of the contemplated construction. Unless otherwise agreed in writing by the Port Department, the plans and specifications shall be certified by an architect or engineer licensed to practice in the State of Florida and shall consist of: (i) working drawings, (ii) technical specifications, (iii) schedule for accomplishing the Improvements, and (iv) such other information as may be required by the Port Department. All Improvements must be made in accordance with the requirements set forth in this Agreement. All of the plans and specifications shall be in such detail as may reasonably permit the Port Department to make a determination as to whether the construction will be consistent with the standards set forth in this Agreement. Any plans and specifications that have received the Port Department's written approval, and any amendments and changes thereto that have received the Port Department's written approval, are hereinafter referred to collectively as "Approved Plans." No construction may be performed on the Premises except pursuant to Approved Plans.

5.3 Changes to Approved Plans. No material changes shall be made to any Approved Plans without the prior written approval of the Port Department. Any change that requires the issuance of a building permit or modifies an existing building permit shall be considered a material change.

5.4 Compliance with law. All Improvements constructed or installed by Lessee, its agents, or contractors, including the plans and specifications relating to same, shall conform to all applicable state, federal, County, and local agency (including divisions and departments of County) statutes, ordinances, building codes, fire codes, rules, and regulations, and design standards. The approval by the Port Department of any plans, specifications, or designs shall not constitute a representation or warranty as to such conformity, and the responsibility therefor shall at all times remain with Lessee.

5.5 Ownership. All Improvements to the Premises shall become County's property upon the expiration or earlier termination of this Agreement and shall be surrendered with and remain on the Premises (without cost to, or reimbursement by, County), excluding furnishings, equipment, and trade fixtures that are not permanently affixed to the Premises. Any addition, fixture, or other Improvement that is nailed, bolted, stapled, or otherwise affixed to the Premises and is not readily removable, shall become part of the Premises as a leasehold improvement, whether or not such may be deemed a trade fixture. If any personalty is removed by Lessee, Lessee shall restore any damage to the Premises caused thereby. Notwithstanding any other provisions of this Agreement, the Port Department shall have the right, in their sole discretion, to require Lessee, at Lessee's sole cost, to remove any leasehold Improvements installed by Lessee prior to the date this Agreement terminates.

5.6 Certified Statements. Within one hundred and twenty (120) days after the installation of any Improvements, unless otherwise agreed in writing by the Port Department, Lessee must provide to the Port Department: (a) a certified statement from the construction contractor(s) stating that the Improvements are free and clear of all liens, claims, or encumbrances by any material supplier, subcontractor, or laborer, and that all such fees and charges have been paid; and (b) a certified statement from the architect or engineer stating that the Improvements have been constructed in accordance with Approved Plans and in compliance with all applicable federal, state, local, and County laws, rules, ordinances, regulations, and building codes. Lessee shall provide, upon request, such back-up documentation and releases of lien as may be required by the Port Department.

5.7 Liens. Lessee represents, warrants, and covenants to County that the Premises and all Improvements constructed or placed thereon shall be at all times free and clear of all liens, claims, and encumbrances created by Lessee or Lessee's agents, contractors, employers, officers, or invitees. If any such lien or notice of lien shall be filed against the Premises or any Improvements, Lessee shall, within thirty (30) days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, or order of a court of competent jurisdiction.

5.8 As-Built Plans and Specifications. Within one hundred twenty (120) days after the installation of any Improvements, unless otherwise agreed in writing by the Port Department, Lessee shall, at its expense, provide the Port Department with a complete set of "as-built" plans and specifications (one (1) hard copy and one (1) .pdf format), including mylar reproducible "record" drawings, and a complete set of machine-readable disks containing electronic data in

an AUTOCAD format that meets the Port Department's graphic standards of the "as-constructed" or "record" plans for such Improvements (one (1) hard copy and one (1) .pdf format).

5.9 Approval from Other Governmental Agencies for Lessee's Improvements. In addition to the Port Department's approval, Lessee shall be responsible for obtaining all construction permits, complying with inspection requirements of the Broward County edition of the current South Florida Building Code, and obtaining any other required approval from all other agencies having jurisdiction over any Improvements, including, but not limited to, departments, divisions, or offices of County, the State of Florida, and the federal government.

5.10 Americans with Disability Act Compliance. All Improvements made to the Premises shall be in conformity and consistent with the Americans with Disability Act of 1990, as same may be amended from time to time.

5.11 Failure to Obtain Approval. If any Improvement is made without the approvals required pursuant to this article, then, upon notice in writing, Lessee shall remove the same, or, at the sole option of the Port Department, cause the same to be changed to the satisfaction of the Port Department. In the case of any failure on the part of Lessee to comply with such notice, County may affect the removal or change and Lessee shall pay the cost thereof to County within ten (10) days following written demand for said payment.

5.12 Impact on Public Areas. During construction of any Improvements, Lessee shall maintain the public areas in the same manner and cleanliness as provided by County. Any such Improvements shall be made within the time specified in the approval from the Port Everglades Department and shall be undertaken with the least disturbance possible to the public and the operation of Port Everglades.

5.13 Prevailing Wage Requirement. If construction work in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) is required of, or undertaken by, Lessee at the Port, Section 26-5, Broward County Code of Ordinances, shall be deemed to apply to such construction work. Lessee shall fully comply with the requirements of such ordinance and shall satisfy, comply with, and complete the requirements set forth in **Exhibit C**.

5.14 Construction and Labor and Material Bonds. Lessee agrees that before commencing any work or construction of Improvements, unless otherwise agreed in writing by the Port Department, Lessee shall obtain or require the contractors to maintain, at all times, valid payment bonds and valid performance bonds, each of which shall be in form and content satisfactory to County and in an amount not less than the amount covering the full amount of the work being performed. Such bonds must guarantee to County the completion and performance of the work being performed as well as full payment of all suppliers, laborers, or subcontractors employed in the performance of the project. The bonds shall continue in effect for one year after final completion and acceptance of the work. The bonds must be executed by a surety company of recognized standing, authorized to do business in the state of Florida as a surety, having a resident agent in the State of Florida, and having been in business with a record

of successful continuous operation for at least the immediately preceding five (5) years. In addition, the surety company must meet at least one of the following additional qualifications:

5.14.1. The surety company shall hold a current certificate of authority as an acceptable surety on federal bonds in accordance with United States Department of Treasury Circular 570, as revised. If the amount of the bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, as revised (including 31 CFR Section 223.10 and Section 223.111). Further, the surety company shall provide County with evidence satisfactory to County that such excess risk has been protected in an acceptable manner.

5.14.2. The surety company shall have at least the following minimum ratings in the latest revision of Best's Insurance Report:

<u>Amount of Bond</u>	<u>Ratings</u>	<u>Category</u>
500,001 to 1,000,000	B+	Class I
1,000,001 to 2,000,000	B+	Class II
2,000,001 to 5,000,000	A	Class III
5,000,001 to 10,000,000	A	Class IV
10,000,001 to 25,000,000	A	Class V
25,000,001 to 50,000,000	A	Class VI
50,000,001 or more	A	Class VII

In lieu of such bonds, Lessee may furnish an alternate form of security, which may be in the form of cash, money order, certified check, cashier's check, or irrevocable letter of credit. Such alternate forms of security shall be for the same purpose and shall be subject to the same conditions as those applicable above and shall be held by County and remain in effect for one (1) year after final completion and acceptance of the work.

It is understood and agreed that Lessee shall be responsible for payment of all costs and expenses relating to (i) Lessee's Improvements, including, but not limited to, the design, permitting, and construction thereof; and (ii) all other improvements necessary to Lessee's use of the Port facilities, including, but not limited to, improvements mandated by any governmental authority having jurisdiction over the Port facilities.

ARTICLE 6. MAINTENANCE OF PREMISES

6.1. Lessee's Responsibilities. Lessee accepts the Premises in its then present condition as of the date it takes occupancy, and agrees to maintain and repair the Premises in the same condition (*i.e.*, clean, sanitary, and in good working order) as exists on said date, excepting only reasonable wear and tear arising from Lessee's use thereof pursuant to the terms and conditions of this Agreement. The Parties agree that potholes are not considered reasonable wear and tear as used

above. Lessee shall assume the entire responsibility and shall relieve County (except as provided in Section 6.2) from responsibility for all repair and maintenance whatsoever of the Premises (which shall include, without limitation, all improvements thereon), whether such repair or maintenance be ordinary or extraordinary, structural, or otherwise. Lessee shall at all times keep the Premises in good, tenantable, useable condition, and without limiting the generality thereof, shall:

6.1.1. Maintain the Premises in a safe and neat manner, free from garbage, debris, or other unsightly or unsanitary waste matter (whether solid or liquid). Any of such garbage, debris, or other waste matter as may be temporarily stored in the open shall be kept in suitable garbage and waste receptacles. Lessee shall use extreme care when effecting removal of all such waste matter, and shall comply with all laws, ordinances, rules, regulations, and procedures of all applicable governmental authorities in so doing.

6.1.2. Maintain the Premises and all Improvements thereon in a clean, orderly, and safe condition, and make all necessary repairs thereto. The term "repairs" shall include, but not be limited to, all replacements, renewals, alterations, additions, and betterments deemed necessary. All repairs made by Lessee shall be at least equal in quality and class to the original work.

6.1.3. Repair any damage to the paving or other surface of the Premises caused by overloading or any oil, gasoline, grease, lubricants, or other liquids or substances having a corrosive or detrimental effect thereon, and all subsurface conditions, including, but not limited to, potholes.

6.1.4. Provide, maintain, repair, and replace all obstruction lights and similar devices, fire protection, safety equipment, and all other equipment of every kind and nature required by all laws, rules, orders, ordinances, resolutions, or regulations of all applicable governmental authorities, excluding the high-mast lights.

6.1.5. Repair all damage to the Premises that is the result of any act, omission, negligence, or willful misconduct on the part of Lessee, its employees, agents, contractors, or invitees, including, but not limited to, damage to fencing, reefer plugs, gates, lighting, or pavement, within thirty (30) days.

6.1.6. Maintain and keep clean the interior of the stormwater management systems on the Premises, and any inlet-guards installed by tenant shall be free from any debris/sediment.

If Lessee fails in any material respect to: (i) commence curative action to maintain, clean, repair, replace, rebuild, or paint within a period of thirty (30) days (except seven (7) days for maintenance items) after notice from the Port Department; or (ii) continue to completion, in a diligent manner, the maintenance, repair, replacement, rebuilding, or painting of the Premises required to be maintained, repaired, replaced, rebuilt, or painted under the terms of this Agreement, then the Port Department may, at its option, and in addition to any other remedies

that may be available to it, maintain, repair, replace, rebuild, or paint all or any part of the Premises included in the said notice and all costs and expenses associated therewith shall be payable by Lessee to County within fifteen (15) days after written demand is sent.

6.2. County's Responsibility. County, at its sole expense, shall maintain and repair all underground utilities and high-mast lighting that are now or may be subsequently located at the Premises; provided, however, that for repairs necessitated by any act, omission, negligence, or willful misconduct on the part of Lessee, its employees, agents, contractors, guests, or invitees, Lessee shall, at County's option, make all such repairs or reimburse County within fifteen (15) days after written demand is sent.

ARTICLE 7. DEFAULT BY LESSEE

7.1 Event of Default by Lessee. The occurrence of any of the following shall constitute an "Event of Default" by Lessee under this Agreement:

7.1.1 Lessee fails to pay any monies when due and continues in its failure to pay for a period of fifteen (15) days following the date written notice to cure is sent by the Port Department to Lessee;

7.1.2 Lessee fails to comply with any provision of this Agreement and (a) such failure continues for a period of fifteen (15) days following the date written notice to cure is sent by the Port Department to Lessee; (b) in the case of any obligation that cannot be cured with due diligence and good faith within fifteen (15) days, as determined by the Port Department, Lessee fails to proceed promptly and with due diligence and good faith to begin to cure the default within fifteen (15) days after such notice is sent by the Port Department; or (c) having begun to cure the default in a timely manner, Lessee thereafter fails to diligently prosecute the cure to completion;

7.1.3 Lessee assigns all or substantially all of Lessee's assets for the benefit of Lessee's creditors;

7.1.4 Lessee abandons, deserts, or vacates the Premises, or ceases to operate in the Premises in compliance with this Agreement, for a period of thirty (30) consecutive days;

7.1.5 By or pursuant to, or under the authority of any legislative act, resolution, or rule or any order or decree of any court or governmental board, agency, or officer having jurisdiction, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the assets of Lessee, and such possession or control shall continue in effect for a period of ninety (90) days;

7.1.6 Lessee, or an officer, director, executive, partner, member, shareholder, employee, or agent who is active in the management of Lessee, is found guilty or convicted of illegal conduct or activity (with or without an adjudication of guilt) as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere, where the

illegal conduct or activity (i) is considered to be a Public Entity Crime as defined by Chapter 287, Florida Statutes, as amended; (ii) is customarily considered to be a “white collar crime” or theft-related crime such as fraud, smuggling, bribery, embezzlement, or misappropriation of funds; (iii) involves an act of moral turpitude, meaning conduct or acts that tend to degrade the person in society or bring them into public hatred, contempt, scorn, or ridicule, or that tends to shock, insult, or offend the community, or to ridicule public morals, or decency, or to harm the image of County by virtue of its association with Lessee; or (iv) results in a felony conviction. Notwithstanding the foregoing, Lessee may abate this triggering event by submitting evidence satisfactory to the Port Department that Lessee has implemented best business practices seeking to address such illegal conduct or activity and prevent it from reoccurring, and requiring the offending person(s) to resign and has otherwise removed the person from Lessee’s management activities related to this Agreement;

7.1.7 Suspension or revocation of Lessee’s operations by a governmental unit or agency having jurisdiction over the Premises or the business as being conducted thereon;

7.1.8 Lessee assigns this Agreement in violation of Article 10; or

7.1.9 The material inaccuracy of any representation or warranty made or given by Lessee in this Agreement and Lessee’s failure to cure such inaccuracy to the satisfaction of the Port Department within fifteen (15) days after written notice to cure is sent to Lessee.

7.2 County’s Remedies for Lessee’s Default. If one or more Events of Default occurs, County may, at its sole option, exercise one or more of the following rights after notice to Lessee:

7.2.1 Terminate this Agreement;

7.2.2 Sue Lessee for all damages, costs, and expenses arising from the Event of Default, and recover all such damages, costs, and expenses, including reasonable costs and attorneys’ fees at both trial and appellate levels;

7.2.3 Seek an injunction or specific performance of any such term or provision of this Agreement. Lessee waives any and all requirements that County post any security or collateral that may be otherwise required as a condition for County to obtain specific performance, injunctive relief, or other equitable relief. The Parties agree and stipulate that County may not have an adequate remedy at law for an Event of Default and, if such determination is made by County, Lessee agrees that injunctive relief or specific performance are required to protect the public from irreparable harm;

7.2.4 Draw down on the Security Deposit; and/or

7.2.5 Exercise any and all other remedies available to County under this Agreement, at law, or in equity.

7.3 Remedies under Federal Bankruptcy Laws. Neither this Agreement nor any rights or privileges under this Agreement shall be an asset of Lessee in any bankruptcy, insolvency, or reorganization proceeding. If County is not permitted to terminate this Agreement because of the provisions of any applicable laws, including, but not limited to, the United States Bankruptcy Code, Lessee or any trustee for it shall, within fifteen (15) days, upon request by County to the applicable court or administrative body, assume or reject this Agreement; provided, however, that Lessee (or successor) may not assume this Agreement unless all Events of Default have been cured, County shall have been compensated for any monetary loss resulting from such Events of Default, and County shall be provided with adequate assurance of full and timely performance of all provisions, terms, and conditions of this Agreement on the part of Lessee to be performed.

Notwithstanding the foregoing, to the greatest extent permitted under applicable law, upon the filing by or against Lessee of any proceeding under federal bankruptcy laws, if there has been an Event of Default within the six (6) months preceding such filing, County shall have the right to immediately terminate this Agreement, in addition to other remedies provided under provisions of any applicable laws, including, but not limited to, the United States Bankruptcy Code. Such termination shall be by written notice to Lessee within sixty (60) days after the date of Lessee's initial filing in bankruptcy court.

7.4 Payment under Protest. Notwithstanding anything to the contrary in this Agreement, if a dispute arises between County and Lessee with respect to any obligation or alleged obligation of Lessee to pay money, the payment under protest by Lessee of the amount claimed by County to be due shall not waive any of Lessee's rights, and if any court or other body having jurisdiction determines that all or any part of the protested payment was not due, then County shall as promptly as reasonably practicable reimburse Lessee any amount determined as not due. County shall not be required to pay any interest on any such reimbursed sums.

7.5 Holdover. Any holding over of Lessee after the expiration or earlier termination of this Agreement shall not renew and extend same, but shall operate and be construed as a tenancy at sufferance, pursuant to Section 83.04, Florida Statutes, as amended, and, unless otherwise agreed in writing by the Port Director, Lessee shall be required to pay to County during any holdover period monthly rent equal to double the Rent for the Premises based on the rates then in effect under this Agreement and all other fees required to be paid by this Agreement, including, but not limited to, utility charges, Cargo Wharfage Charges, and other Tariff charges. All other provisions of this Agreement shall remain in effect during such holdover period. Lessee shall be liable to County for all loss or damage on account of any such holding over after the expiration or earlier termination of this Agreement, whether or not such loss or damage may be contemplated as of the Effective Date. County reserves the right to pursue all remedies available to it under applicable laws as a result of Lessee's holdover. Acceptance of any payments by County in the event that Lessee fails or refuses to surrender possession shall not operate as County's consent to Lessee's continued possession nor shall it constitute a waiver by County of its right to immediate possession of the Premises.

7.6 Habitual Default. If Lessee has frequently, regularly, or repetitively breached any of the terms, covenants, or conditions of this Agreement, regardless of whether Lessee has cured each

or any individual breach, Lessee may be determined by County to be a "Habitual Violator." At the time that such determination is made, County shall issue to Lessee a written notice advising of such determination and citing the circumstances therefor. Such notice shall also advise Lessee that there shall be no further notice or cure periods to correct any subsequent breach and that any subsequent breach of whatever nature, taken with all previous breaches, considered cumulative and collectively, shall constitute a condition of noncurable default and grounds for immediate termination of this Agreement. If any such subsequent breach, County may terminate this Agreement upon the giving of written notice of termination to Lessee, such termination to be effective upon delivery of the notice to Lessee.

ARTICLE 8. DAMAGE

8.1 Damage Caused by Lessee. If damage is caused by the act or omission of Lessee or Lessee's officers, agents, employees, partners, contractors, subcontractors, sublessees, guests, or invitees, Lessee shall be responsible, at its expense, for making all the necessary repairs as approved by the Port Department. If Lessee fails to make the necessary repairs in a timely manner as determined by the Port Department, then the Port Department may, at their option, cause such repairs to be completed and Lessee shall reimburse County for the costs and expenses incurred in such repair, plus an administrative fee as permitted under the Broward County Administrative Code.

ARTICLE 9. INDEMNIFICATION AND INSURANCE

9.1 Indemnification. Lessee shall indemnify, hold harmless, and defend County and all of County's current, past, and future officers, agents, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any breach of this Agreement by Lessee, or by any intentional, reckless, or negligent act or omission of Lessee, its officers, employees, or agents, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). If any Claim is brought against an Indemnified Party, Lessee shall, upon written notice from County, defend each Indemnified Party against each such Claim by counsel satisfactory to County or, at County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. If considered necessary by the Port Department and the County Attorney, any sums due Lessee under this Agreement may be retained by County until all Claims subject to this indemnification obligation have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by County.

9.2 Insurance. For the duration of the Agreement, Lessee shall, at its sole expense, maintain the minimum insurance coverages stated in **Exhibit D** in accordance with the terms and conditions of this article. Lessee shall maintain insurance coverage against claims relating to any act or omission by Lessee, its agents, representatives, employees, or subcontractors in connection with this Agreement. County reserves the right at any time to review and adjust the limits and types of coverage required under this article.

9.3 Additional Insured. Lessee shall ensure that "Broward County" is listed and endorsed as an additional insured as stated in **Exhibit D** on all policies required under this article.

9.4 Certificates of Insurance. On or before the Effective Date, Lessee shall provide County with a copy of all Certificates of Insurance or other documentation sufficient to demonstrate the insurance coverage required in this article. If and to the extent requested by County, Lessee shall provide complete, certified copies of all required insurance policies and all required endorsements within thirty (30) days after County's request.

9.5 Remain in Full Force. Lessee shall ensure that all insurance coverages required by this article shall remain in full force and effect for the duration of this Agreement and until all performance required by Lessee has been completed, as determined by the Port Department. Lessee or its insurer shall provide notice to County of any cancellation or modification of any required policy at least thirty (30) days prior to the effective date of cancellation or modification, and at least ten (10) days prior to the effective date of any cancellation due to nonpayment, and shall concurrently provide County with a copy of its updated Certificates of Insurance evidencing continuation of the required coverage(s). Lessee shall ensure that there is no lapse of coverage at any time during the time period for which coverage is required by this article.

9.6 Insurer. All required insurance policies must be placed with insurers or surplus line carriers authorized to conduct business in the State of Florida with an A.M. Best rating of A- or better and a financial size category class VII or greater, unless otherwise approved by County's Risk Management Division in writing.

9.7 Broader Coverage. If Lessee maintains broader coverage or higher limits than the minimum insurance requirements stated in **Exhibit D**, County shall be entitled to any such broader coverage and higher limits maintained by Lessee. All required insurance coverages under this article shall provide primary coverage and shall not require contribution from any County insurance, self-insurance or otherwise, which shall be in excess of and shall not contribute to the insurance required and provided by Lessee.

9.8 Self-Insured. Lessee shall declare in writing any self-insured retentions or deductibles over the limit(s) prescribed in **Exhibit D** and submit to County for approval at least fifteen (15) days prior to the Effective Date. Lessee shall be solely responsible for and shall pay any deductible or self-insured retention applicable to any claim against County. County may, at any time, require Lessee to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. Lessee agrees that any deductible or self-insured retention may be satisfied by either the named insured or County, if so elected by County, and Lessee agrees to obtain same in endorsements to the required policies.

9.9 Subrogation. Unless prohibited by the applicable policy, Lessee waives any right to subrogation that any of Lessee's insurers may acquire against County, and agrees to obtain same in an endorsement of Lessee's insurance policies.

9.10 Subcontractor Insurance. Lessee shall require that each subcontractor maintains insurance coverage that adequately covers the services provided by that subcontractor on substantially the same insurance terms and conditions required of Lessee under this article. Lessee shall ensure that all such subcontractors comply with these requirements and that "Broward County" is named as an additional insured under the subcontractors' applicable insurance policies.

9.11 Failure to Maintain Insurance. If Lessee or any subcontractor fails to maintain the insurance required by this Agreement, County may pay any costs of premiums necessary to maintain the required coverage and deduct such costs from any payment otherwise due to Lessee. Lessee shall not permit any subcontractor to provide services unless and until the requirements of this article are satisfied. If requested by County, Lessee shall provide, within one (1) Business Day, evidence of each subcontractor's compliance with this article.

9.12 Claims-Made Coverage. If any of the policies required under this article provide claims-made coverage: (1) any retroactive date must be prior to the Effective Date; (2) the required coverage must be maintained after termination or expiration of the Agreement for at least the duration stated in **Exhibit D**; and (3) if coverage is canceled or nonrenewed and is not replaced with another claims-made policy form with a retroactive date prior to the Effective Date, Lessee must obtain and maintain "extended reporting" coverage that applies after termination or expiration of the Agreement for at least the duration stated in **Exhibit D**.

ARTICLE 10. ASSIGNMENT, SUBLETTING, AND SUBORDINATION

10.1 County Consent Requirements; Factors and Standards. Lessee shall not (i) sublet the Premises or any part thereof; (ii) permit any transfer, assignment, pledge, or encumbrance of this Agreement; (iii) transfer, assign, pledge, or otherwise encumber or subordinate this Agreement or any rights or obligations hereunder; or (iv) allow same to be assigned by operation of law or otherwise (collectively, any such action hereinafter referenced as an "Assignment") without the Port Department's prior written consent, which consent may be granted or withheld by the Port Department in its sole discretion and conditioned upon such additional terms and conditions as the Port Department deems necessary. The factors upon which the Port Department may base its decision on whether to grant such consent shall include, but not be limited to: (i) an assessment of whether the proposed assignee meets standards of creditworthiness; (ii) whether the Premises will be used in connection with the maritime industry for the purposes described herein; and (iii) an assessment of the ability of the proposed assignee to perform the obligations under this Agreement. In the event of any request for an Assignment by Lessee, the proposed assignee shall be required to execute a written assumption lease, agreeing to assume and abide by all of the terms and provisions of this Agreement, which assumption lease must be acceptable to the Port Department. County shall not unreasonably withhold its consent to an Assignment. In no case will an Assignment be granted if a default by Lessee shall have occurred and remain uncured.

10.2 No Release. In the event of any Assignment, Lessee shall not be released of its obligations and liabilities hereunder. County, as a condition of approving an Assignment, may increase the

Rent and other fees payable, and may require modification of any other terms or conditions of this Agreement and/or execution of additional documents, including an irrevocable Guaranty of Payment and Performance by Lessee or any other proposed assignor.

10.3 Assumption of Liability. No Assignment shall be binding on County unless and until such assignee, transferee, or sublessee executes a written lease or assumption lease with County assuming all liabilities and obligations of Lessee hereunder.

10.4 Change in Lessee's Status. For purposes of this article, an "Assignment" shall include: (i) any transfer of this Agreement by merger, consolidation, liquidation, or by operation of law; and (ii) any change in ownership or power to vote a majority of the outstanding voting stock or interest of Lessee. Notwithstanding the foregoing, the following shall not be deemed an Assignment: (i) a transfer of stock or interests in Lessee among its current (as of the date this Agreement was executed by County) owners and/or their affiliates; (ii) a transfer of stock or interests in Lessee resulting from the death of a stockholder, member, partner, or joint venturer; or (iii) any transfers of stock in Lessee or any assignee, transferee, or sublessee which stock is publicly traded on a national stock exchange.

10.5 Voiding of Assignment or Sublease; Right to Collect Rent. If Lessee takes any action prohibited under this article without the Port Department's prior written consent, then any such Assignment shall be null and void and of no force or effect, and in addition to all other available remedies, the Port Department shall be entitled to immediately terminate this Agreement. In no case may the activities, uses, privileges, and obligations authorized herein regarding the Premises or any portion thereof be assigned for any time period for which a default of this Agreement by Lessee has occurred and remains uncured.

In addition, if the Premises is occupied by any entity without County's prior written consent in violation of this article, then County may collect rent from the assignee, sublessee, or any entity that claims a right to this Agreement or that occupies the Premises, and the Port Department shall apply the net amount collected to the Rent and other fees due under this Agreement; however, no such collection shall be deemed a waiver by County of the provisions of this article or any acceptance by County of any assignee, sublessee, or any entity who claims a right to this Agreement or who occupies the Premises.

10.6 Subordinate to County. Lessee acknowledges and agrees that each sublessee of Lessee is subject to all of the terms and provisions of this Agreement, including, but not limited to, the requirement that each such sublessee must comply with all federal, state, and local laws, ordinances, rules, regulations, and orders in effect that are applicable to the operations being conducted on or the use and enjoyment of the Premises by the sublessee. Notwithstanding any sublease of the Premises to which County has consented as provided herein, Lessee shall remain responsible for ensuring that each and every term and provision of this Agreement is fully abided by and complied with and, in that regard, any failure by a sublessee to abide by and comply with any term or provisions of this Agreement shall be deemed a default by Lessee hereunder, entitling County to any and all remedies available hereunder and pursuant to applicable Florida law. Each sublease of the Premises to which County has consented as provided herein shall be

subordinate in all respects to all the terms and provisions of this Agreement, and upon any termination or expiration of this Agreement, each sublease of the Premises shall also terminate or expire contemporaneously on the effective termination date or expiration date of this Agreement.

10.7 Mortgage on Leasehold. No leasehold mortgage shall be binding upon County without the prior written consent of the Port Department. However, County will accept performance or payment by the holder of any leasehold mortgage to which the Port Department has consented, of any term and condition of this Agreement required to be made by Lessee, with the same force and effect as though performed by Lessee, if at the time of such performance or payment, County shall be furnished with evidence satisfactory to the Port Department, of the interest in the leased property claimed by the person or entity tendering such performance or payment. The holder of such leasehold mortgage shall have ten (10) additional days after the date on which the Port Department may otherwise terminate this Agreement as to the defaulting Lessee to cure any default in the payment of Rent or other additional sums required to be paid under this Agreement, and thirty (30) additional days after the date on which the Port Department may otherwise terminate this Agreement as to the defaulting Lessee to cure any other default hereunder. In no event shall an approved leasehold mortgagee sell, assign, transfer, convey, or otherwise dispose of its interest in this Agreement to a third party without the prior written consent of the Port Department.

The Port Department shall, from time to time, upon reasonable written request, provide a leasehold mortgagee or Lessee with an estoppel certificate stating whether Lessee is in default, whether this Agreement is in full force and effect, and whether this Agreement has been modified. Notwithstanding any consent provided by County, no Assignment shall give Lessee or its assignee, sublessee, transferee, or leasehold mortgagee any lien or encumbrance upon the fee simple ownership interest in the Premises, which is vested in County.

When giving notice to Lessee with respect to any default under the provisions of this Agreement, the Port Department shall also serve a copy of such notice upon any approved leasehold mortgagee by certified mail, return receipt requested, or any other method of delivery that can be confirmed and verified, to the leasehold mortgagee at the address set forth in the approved leasehold mortgage. It is Lessee's responsibility and the approved leasehold mortgagee's responsibility to ensure that the Port Department has both Lessee's and the approved leasehold mortgagee's correct and current mailing address.

Upon Lessee's receipt of notice of default from the Port Department, Lessee will promptly notify the approved leasehold mortgagee in writing of such occurrence and state in the written notice what action has been or will be taken by Lessee to cure the default. Lessee shall also promptly provide the Port Department with a copy of the written notice provided to the approved leasehold mortgagee.

ARTICLE 11. SURRENDER OF PREMISES

11.1 Surrender and Condition. Upon the expiration or earlier termination of this Agreement, Lessee shall surrender possession of the Premises in the same condition as it was received on the first day of occupancy, less reasonable wear and tear, and all of the Premises and Improvements located thereon shall be free and clear of all liens, encumbrances, and security interests. The required condition of the Premises at the time of Lessee's surrender shall include, but not be limited to, the following, as applicable: (i) all flooring must be cleaned as reasonably required by the Port Department; (ii) all doors and walls must be patched and painted with in a color approved by the Port Department; (iii) all ceiling tiles shall be in place, clean, and matching; (iv) all Lessee-installed conduit and wiring shall be removed if requested by the Port Department; and (v) all personal property and Improvements (except Improvements that are owned by County as provided in Article 5) shall be removed. A final exit walkthrough inspection shall be conducted prior to surrender by Lessee and the Port Department to determine compliance with this provision and the Port Department's acceptance of the condition of the Premises. If Lessee fails to comply with the terms of this section, County reserves the right to perform all necessary work to bring the Premises to the required condition and Lessee shall be required to reimburse County for all reasonable expenses incurred. The provisions of this section shall survive the expiration or other termination of this Agreement.

11.2 Removal. Lessee has the right at any time during this Agreement to remove any furnishings, trade fixtures, or equipment it has installed in, on, or about the Premises, subject to the provisions of this Agreement and any lien County may have thereon for unpaid fees, charges, or other amounts payable under this Agreement, and provided that Lessee shall restore any damage to the Premises and the Premises shall be returned to County in the same condition as defined in Section 11.1. Any such property not removed by Lessee by the expiration or earlier termination of this Agreement shall become part of the Premises or, if elected by the Port Department, may be removed, stored, or sold by County, at Lessee's expense, with such obligation to pay surviving the expiration or earlier termination of this Agreement.

11.3 Failure to Surrender. If Lessee fails to surrender the Premises in the condition required by this article or fails to complete any of the obligations due under this Agreement, including the payments of Rent or other amounts due, Lessee, from the date of the expiration or earlier termination of this Agreement until the acceptance of surrender by the Port Department as set forth in Section 11.4, shall be considered a holdover tenant under the terms set forth in Section 7.5.

11.4 Acceptance of Surrender. No agreement of surrender or to accept a surrender of the Premises under this Agreement shall be valid unless and until approved in writing by the Port Department and Lessee, provided that the Port Department's approval shall not be unreasonably withheld. Except as expressly provided in this Agreement, neither the doing of nor any omission to do any act or thing by any of the officers, agents, or employees of County shall be deemed an acceptance of a surrender.

ARTICLE 12. ENVIRONMENTAL

12.1 County makes no representations or warranties whatsoever as to whether Pollutants (as hereinafter defined) exist on or under the Premises or the improvements thereon in violation of any federal, state, or local law, rule, or regulation or in violation of any order or directives of any federal, state, or local court or entity with jurisdiction of such matter. The term "Pollutants" refers to and includes all derivatives or by-products of any one or more of the following terms as defined by applicable local, state, or federal laws or regulations: hazardous substances, hazardous materials, hazardous waste, toxic substances, toxic pollutants; or such other pollutants, contaminants, substances, materials, and wastes as are or become regulated under applicable local, state, or federal laws or regulations. Lessee acknowledges, represents, and warrants to County that it has made sufficient inspection of the Premises and the improvements thereon to satisfy itself as to the presence or absence of any such Pollutants. Lessee shall have no liability for any preexisting environmental impairments, liabilities, or conditions related to the Premises and the improvements thereon not caused by Lessee or Lessee's officers, agents, employees, partners, contractors, subcontractors, sublessees, guests, or invitees. Lessee shall not be liable for any migration of Pollutants and/or rise in the level of any Pollutants related to the Premises not caused by Lessee or Lessee's officers, agents, employees, partners, contractors, subcontractors, sublessees, guests, or invitees.

12.2 The discharge of any Pollutants on the Premises or in Port Everglades in violation of any federal, state, or local law, rule, or regulation, or in violation of an order or directive of any federal, state, or local court or entity is prohibited. Any Pollutant discharge by Lessee or Lessee's officers, agents, employees, partners, contractors, subcontractors, sublessees, guests, or invitees, whether committed prior to or subsequent to the Effective Date of this Agreement, shall be, at Lessee's expense, and upon the Port Department demand, immediately contained, removed, and abated to the satisfaction of the Port Department and any court or regulatory entity having jurisdiction of the Pollutant discharge. If Lessee does not take action immediately to have such Pollutants contained, removed, and/or abated, County may undertake the removal of the Pollutant discharge; however, any such action by County shall not relieve Lessee of its obligations under this or any other provision of this Agreement or as imposed by law. No action taken by either Lessee or County to contain or remove Pollutants, or to abate a discharge, whether such action is taken voluntarily or not, shall be construed as an admission of liability as to the source of or cause of the Pollutant discharge.

12.3 Lessee shall provide the Port Department with immediate notice of any and all spills, leaks, or discharges of any size whatsoever of Pollutants arising from its operations on and/or use of the Premises or in Port Everglades, and further provide the Port Department with not less than one (1) Business Day prior written notice of all curative measures, remediation efforts, and/or monitoring activities to be effectuated by Lessee, or promptly after taking any emergency measures.

12.4 If the Port Department arranges for the removal of any Pollutants in Port Everglades that were caused by Lessee or Lessee's officers, agents, employees, partners, contractors, subcontractors, sublessees, guests, or invitees, the costs of such removal incurred by County shall

be paid by Lessee to County immediately upon the Port Department's written demand, with interest as is provided for under County's rules, regulations, and ordinances, including the Tariff.

12.5 Lessee shall not be liable for the discharge of any Pollutants caused by the negligence or willful misconduct of County. Nothing herein shall relieve Lessee of its general duty to cooperate with County in ascertaining the source and containing, removing, and abating any Pollutants located at the Premises. County and County's employees, contractors, and agents shall have the right at all times to enter the Premises for the purposes of the foregoing activities and/or conducting such environmental inspections, audits, testing, or sampling as County deems appropriate. In addition, Lessee hereby agrees that upon any Assignment of this Agreement or at any time during the Term, County shall have the right to have a "Phase I" audit of the Premises conducted at Lessee's expense, and if such "Phase I" audit indicates that further testing and/or studies should be conducted, to include, but not be limited to, soil samples and water samples, then County shall have the right to have such further testing and studies conducted at Lessee's expense. Lessee shall reimburse County for the cost of such testing and studies within fifteen (15) days after written demand by County.

12.6 If the Port Department arranges for the removal of Pollutants on the Premises that are not Lessee's responsibility to correct, and if County's remediation activities prevent Lessee from using the Premises for its intended purposes, then from the date that the use of any portion of the Premises for its intended purposes is precluded and until the date said portion again becomes available for Lessee's use, then a prorated portion of the Rent payments and other fees due shall be abated based on the portion of the Premises rendered unusable. In no event shall Lessee be entitled to claim or seek from County any amount on account of lost profits, lost rents, or other direct or consequential damages as a result of County's remediation activities.

12.7 Lessee shall, as required by applicable laws, provide the relevant regulatory authorities with notice of any and all spills, leaks, or discharges of Pollutants on the Premises or within Port Everglades, and have an updated contingency plan in effect for such spills, leaks, or discharges.

12.8 The provisions of this article shall survive the expiration or earlier termination of this Agreement.

ARTICLE 13. OTHER PROVISIONS

13.1. Right to Enter Premises.

13.1.1 County, by its officers, employees, agents, representatives, and contractors, shall have the right at all reasonable times to enter upon the Premises to inspect, make inquiry, and ascertain whether Lessee is complying with the terms of this Agreement, and to perform or conduct any act or activity that County may be obligated or have the right to do under this Agreement or otherwise.

13.1.2 Without limiting the generality of the foregoing, County, by its employees, agents, representatives, and contractors, may enter upon the Premises at all reasonable times to:

(i) make any installations, repairs, replacements, or alterations relating to existing and future utility, mechanical, electrical, HVAC, plumbing, roofing, or other systems in, on, or under the Premises as may be deemed necessary or advisable by County; or (ii) use the Premises for access to other parts of Port Everglades otherwise not conveniently accessible; provided, however, that in the exercise of such rights of access, repair, alteration, or new construction, County shall not unreasonably interfere with the use and occupancy of the Premises by Lessee.

13.1.3 If any of Lessee's personal property obstructs the access of County or County's officers, employees, agents, or contractors to any of the existing or future utility, mechanical, electrical, HVAC, plumbing, roofing, or other systems in, on, or under the Premises, and thus interferes with the inspection, maintenance, or repair of any such system, Lessee shall move such property, as directed by the Port Department, in order that access may be had to the system or part thereof for its inspection, maintenance, or repair, and if Lessee fails to remove such property after direction from the Port Department, then the Port Department may move it and Lessee shall pay the cost of such moving within ten (10) days after the Port Department sends written demand therefor.

13.1.4 If at any time during the Term hereof, it is necessary for the Port Department to enter the Premises for the purposes of constructing utility or pipeline facilities or making repairs or other needed improvements, Lessee agrees that the Port Department and its contractors may enter the Premises for such purposes, during reasonable hours and under conditions that will not unreasonably interfere with Lessee's use of the Premises.

13.1.5 The exercise of any or all of the foregoing rights by County shall not be construed to be an eviction of Lessee nor be grounds for any abatement of rental, nor any claim or demand for damages, consequential or otherwise, against County.

13.2. Ingress and Egress. Lessee and Lessee's officers, agents, employees, partners, contractors, subcontractors, sublessees, guests, and invitees, subject to the terms of this Agreement, shall have the right of ingress and egress via appropriate public ways, to be used in common with others having rights of passage within Port Everglades; provided, however, that the Port Department may, from time to time, substitute other suitable means (considering Lessee's business operations) of ingress and egress so long as an alternate adequate means of ingress and egress is available. The Port Department may, at any time, temporarily or permanently close, or request the closing of any such street, roadway, and/or other area at Port Everglades presently or hereafter used as such so long as an alternate adequate means of ingress and egress is made available to the Premises (considering Lessee's business operations). Lessee releases and discharges County of and from any and all claims, demands, or causes of action that Lessee may now or at any time hereafter have against County arising or alleged to arise out of the temporary or permanent closing of any street, roadway, or other area used as such, whether within or outside Port Everglades, provided that County makes available to the Premises an adequate means of ingress and egress (considering Lessee's business operations).

13.3. Inspection of Documents. Lessee shall provide the Port Department the right and ability to inspect all documents relating in any way to the Premises and all activities thereon, including, but not limited to, writings regarding environmental issues and remediation efforts (such as manifests evidencing proper transportation and disposal of Pollutants, site assessments, sampling, and test results, etc.).

13.4. Tariff. Except as otherwise expressly provided herein, Lessee, in its use of County-owned property and facilities and its utilization of services at Port Everglades, shall comply with and be governed by the Tariff, and pay, in addition to the required payments under this Agreement, all charges and rates in accordance with the provisions of the Tariff.

13.5. Animals. Lessee shall not allow any animal(s) or pet(s) of any kind to be kept or harbored in or about the Premises without the prior written permission of the Port Department.

13.6. Signage. Lessee will not place, suffer to be placed, or maintain on the Premises any sign, awning, canopy, or advertising matter without prior written consent of the Port Department, which consent shall not be unreasonably withheld. If such consent is granted by the Port Department, Lessee shall always maintain such item(s) in good condition and install same pursuant to the Port Everglades Development District Zoning Classification.

13.7. Security. Lessee, at its sole cost, shall be responsible for security on the Premises and all improvements thereon, and shall take and require others to take, as required, whatever legal precautions as are necessary to protect the Premises and all improvements thereon, and all persons and property thereon. Lessee acknowledges that security measures at Port Everglades may be increased by County and that such efforts will likely impact the Premises. In this regard, Lessee agrees to cooperate with County's efforts to increase security and agrees to comply with all security-related laws, rules, and regulations (whether imposed by the United States Customs and Border Protection, the United States Coast Guard, state of Florida, or County). Lessee, at its sole cost, shall be responsible for complying with all security-related measures that impact the Premises, Lessee, or Lessee's officers, agents, employees, partners, contractors, subcontractors, sublessees, guests, or invitees. Any increased security-related measures imposed by County on Lessee hereunder shall be uniformly imposed by County on similarly situated parties at Port Everglades.

13.8. Fines. If as a result of an intentional or negligent act or omission of Lessee or Lessee's officers, agents, employees, partners, contractors, subcontractors, sublessees, guests, or invitees, County incurs any fines and/or penalties, or any expense in enforcing the Port Everglades Security Program or the rules and regulations of other applicable security agencies, then Lessee agrees to pay and/or reimburse to County all such fines, penalties, costs, and expenses, including all costs of administrative proceedings, court costs, and reasonable attorney's fees incurred by County in enforcing this provision. Lessee further agrees to rectify any security deficiency caused by Lessee or Lessee's officers, agents, employees, partners, contractors, subcontractors, sublessees, guests, or invitees, or other deficiency as may be determined by the Port Department. If Lessee fails to remedy any such deficiency, the Port

Department may do so at the cost and expense of Lessee. County reserves the right to take whatever action is necessary to rectify any such security deficiency or other compliance deficiency. The provisions hereof shall survive the expiration or any other termination of this Agreement.

13.9. Inspections. Lessee acknowledges that all persons, vehicles, cargo, goods, and other personal property are subject to being inspected and searched when attempting to enter or leave Port Everglades. Lessee acknowledges and understands that the inspection requirements are for the protection of users of the Port and are intended to reduce incidents of cargo tampering, thefts, and other unlawful activities at the Port. For this reason, Lessee agrees that persons who will not consent to being inspected and searched shall not be employed by Lessee or by Lessee's subcontractor(s) in any position requiring access to the Port. Lessee shall include this provision in its contracts with its subcontractors, agents, employees, and business invitees.

13.10. Risk of Loss. The risk of loss of or damage to personal property, including, but not limited to, cargo, commodities, and equipment, that has been stored at or moved on or near the Premises shall be borne solely by Lessee or the owner of such property. Lessee hereby waives all claims and demands against County and County's employees for any losses (including on account of lost or anticipated profits), costs, expenses, or other damages, including, but not limited to, direct, indirect, consequential, or otherwise, caused by injury to or loss of personal property on or near the Premises.

13.11. Licenses. Lessee shall maintain in current status all federal, state, county, and local licenses, business tax receipts, and permits required for the operation of the business conducted by Lessee.

13.12. Parking. Lessee's use of parking spaces in Port Everglades shall be subject to and in accordance with County's vehicle parking regulations set forth in the Tariff. Lessee shall ensure that its officers, employees, and agents park only in parking spaces specifically assigned to Lessee. Vehicles parked in parking spaces not specifically assigned to Lessee may be towed at the vehicle owner's expense.

13.13. Uncontrollable Forces. Neither County nor Lessee shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the nonperforming Party could not avoid. The term "Uncontrollable Forces" shall mean any event that results in the prevention or delay of performance by a Party of its obligations under this Agreement and that is beyond the reasonable control of the nonperforming Party. It includes, but is not limited to, fire, earthquakes, hurricanes, tornadoes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions. Any delay or failure to perform on the part of Lessee caused by Uncontrollable Forces shall not be recognized unless Lessee notifies the Port Department in writing within ten (10) days after the Uncontrollable Forces event. Neither economic impracticability nor inability of Lessee to perform in whole or in part for economic reasons shall constitute an Uncontrollable Forces event.

13.14. Nondiscrimination. No Party may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. By execution of this Agreement, Lessee represents that it has not been placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes). County hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle County to terminate this Agreement in accordance with the provisions of Article 7 herein.

13.15. Damage to Port Facilities. Lessee shall be responsible for and repair any and all damage to the Port caused by the negligence of Lessee. If Lessee fails to make the necessary repairs in a timely manner as determined by the Port Department, then the Port Department may, at their option, cause such repairs to be completed and Lessee shall reimburse County for the costs and expenses incurred in such repair, plus an administrative fee as permissible under the Broward County Administrative Code.

13.16. Development and Expansion of Port. County shall have the right to develop, maintain, and operate the Port as it deems advisable and desirable in accordance with such appropriate governmental authority and regulation as may be applicable, and County shall have the right to make such agreements as County deems necessary or advisable in connection with federal and state funding of Port improvements, alterations, or modifications. If at any point County seeks federal, state, or local government approval regarding the operation or modification of the Port, Lessee shall provide any and all reasonably requested cooperation and support, including, without limitation, supporting County's efforts to obtain any such approvals and executing any documents or instruments reasonably requested by County. Lessee shall not be required to bear any additional expense and shall not be deemed an agent of County.

13.17. Cooperation with County. Lessee acknowledges that County will be seeking regulatory approvals ("Regulatory Approvals") consistent with its Airport Master Plan and subsequent updates (collectively, "Master Plan") and Federal Administrative Administration Record of Decision and subsequent updates (collectively, "ROD"), and Part 150 Study and subsequent updates (collectively, "Part 150 Study"), and the implementation thereof, which may include the following: (1) amendment of development agreements and orders; (2) agreements with the State of Florida and other agencies; (3) land use and zoning amendments; (4) preparation of environmental assessments and environmental impact statements; (5) such permitting as may be required by federal, state, county, or local regulations; and (6) any other Regulatory Approvals as may be required by any governmental authority having jurisdiction over the issuance of permits for the approval and implementation of the Master Plan, the ROD, or the Part 150 Study. Lessee shall cooperate with County in connection with County's efforts to obtain the Regulatory Approvals. From and after the date of Effective Date of this Agreement, Lessee shall (i) support County's efforts to obtain the Regulatory Approvals; and (ii) execute any document(s) or instrument(s) reasonably requested by County in order to assist County in obtaining the Regulatory Approvals, provided that Lessee shall not be required to bear any expense in connection therewith and Lessee shall not be deemed an agent of the County.

13.18. Easements. County reserves the right to maintain such easements and right of way agreements on the Premises as may now or in the future be determined necessary to serve the needs of Port Everglades, and Lessee agrees to take the Premises subject to such easement and agreement requirements. Such easements and agreements will be used for, among other things, ingress and egress for other Port users, the installation of water distribution, sewage collection, underground electrical and telephone conduits, above-ground street lighting, and power poles. However, it is understood and agreed that County will restore any Improvements that Lessee has made on the Premises if such Improvements are damaged by any installation made by County. Furthermore, the Port Department shall take reasonable steps to ensure that any such installation work be the least disruptive to Lessee's operations.

13.19. Polystyrene Food Service Articles. Lessee shall comply with the prohibition on the use or sale of expanded polystyrene products (e.g., Styrofoam) or single-use plastic beverage straws or stirrers on County property set forth in Section 27.173, Broward County Administrative Code.

13.20. Prohibited Telecommunications Equipment. Lessee represents and certifies that Lessee and all of its subcontractors do not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR §§ 52.204-24 through 52.204-26. Lessee represents and certifies that Lessee and all of its subcontractors shall not provide or use such covered telecommunications equipment, system, or services during the Term.

13.21. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

13.22. Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by County nor shall anything included herein be construed as consent by County to be sued by third parties in any matter arising out of this Agreement. County is a political subdivision as defined in Section 768.28, Florida Statutes, and shall be responsible for the negligent or wrongful acts or omissions of its employees to the extent required by Section 768.28, Florida Statutes.

13.23. Agent for Service of Process. If Lessee is not a resident of the State of Florida, is an association or partnership without a member or partner resident of said State, or is a foreign

corporation, then Lessee hereby designates the Secretary of State of the State of Florida as its agent for the purpose of service of process in any court action between it and County arising out of or based upon this Agreement, and service shall be made as provided by the laws of the State of Florida for service upon a nonresident who has designated the Secretary of State as agent for service. If for any reason service of such process is not possible, as an alternative method of service of process, Lessee may be personally served with such process out of this State by certified mailing to Lessee at the address set forth in this Agreement. Any such service out of this State shall constitute valid service upon Lessee as of the date of mailing. Lessee is amenable to and agrees to the process so served, submits to the jurisdiction, and waives any and all objections and protests thereto.

13.24. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term of this Agreement. County's failure to enforce any provision of this Agreement, or acceptance of any Rent or other fees or any partial performance by Lessee, shall not be deemed a waiver of any provision of this Agreement or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

13.25. Time of Essence. Time is of the essence with respect to this Agreement and shall apply to all terms and conditions contained in this Agreement.

13.26. Severability. In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement, and the balance of this Agreement shall remain in full force and effect.

13.27. Independent Contractor. Lessee is an independent contractor under this Agreement. In providing services under this Agreement, neither Lessee nor its agents shall act as officers, employees, or agents of County. Lessee shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.

13.28. Third-Party Beneficiaries. Neither Lessee nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

13.29. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision within an article or section of this Agreement, the article or section shall prevail and be given effect.

13.30. Joint Preparation. This Agreement has been jointly prepared by the Parties hereto, and shall not be construed more strictly against either Party.

13.31. Incorporation of Required Provisions. The Parties incorporate herein by this reference all provisions lawfully required to be contained herein by any governmental body or agency.

13.32. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated herein by reference. The following Exhibits are incorporated into and made a part of this Agreement:

Exhibit A	Premises
Exhibit B	Form Report
Exhibit C	Statement of Compliance
Exhibit D	Minimum Insurance Coverage

13.33. Amendments. No modification, amendment, or alteration in the terms or conditions contained in this Agreement shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by authorized signatories of both the Board and Lessee.

13.34. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. No deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements, whether oral or written.

13.35. Interpretation. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include any other gender, and the singular shall include the plural, and vice versa unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated.

13.36. Survival. Upon termination or expiration of this Agreement, Lessee shall remain liable for all obligations and liabilities that have accrued prior to the date of termination or expiration. Notwithstanding any provision of this Agreement to the contrary, no obligation which accrued but has not been satisfied under any prior agreements between the Parties, including the Prior Agreement, shall terminate or be considered canceled upon execution of this Agreement. Rather,

such obligation shall continue as if it had accrued under this Agreement until the obligation is satisfied.

13.37. No Set Off. Lessee acknowledges that, through the Effective Date, it has no claims against County with respect to any of the operations of Lessee at the Port or any of the matters covered by this Agreement or any other agreement it may have with County. Lessee further acknowledges that it has no right of set off or counterclaims against any of the amounts payable by Lessee to County under this Agreement or any other agreement it may have with County.

13.38. Waiver of Claims. Lessee hereby waives any claim against County and its officers, commissioners, and employees for any consequential damages, including, without limitation, any loss of anticipated profits caused by (a) any failure of County to comply with any obligations hereunder; (b) any suit or proceedings directly or indirectly attacking the validity of this Agreement or any part thereof; (c) any judgment or award in any suit or proceeding declaring this Agreement null, void, or voidable, or delaying the same or any part thereof from being carried out; or (d) any change in the operation or configuration of, or any change in procedures governing the use of the Port.

13.39. Non-Liability of Government Representatives. No commissioner, director, officer, agent, or employee of County shall be charged personally or held contractually liable under any term or provision of this Agreement or of any supplement, modification, or amendment to this Agreement or because of any breach thereof or because of its or their execution or attempted execution.

13.40. No Remedy Exclusive. No remedy conferred in this Agreement upon or reserved to County or Lessee is intended to be exclusive of any other remedy herein provided or otherwise available, and each and every remedy shall be cumulative and shall be in addition to every other remedy given in this Agreement or now or hereafter existing at law or in equity.

13.41. Condemnation. If at any time during the Term, the power of eminent domain shall be exercised or threatened whether by condemnation proceeding or threat or imminence thereof (a "Taking") of the entirety of the Premises or substantially all of the Premises so as to render the Premises untenable shall occur, such Taking shall be deemed to have caused this Agreement to terminate and expire as of the date of such Taking. For purposes of this Agreement, the date of Taking shall be the earlier of the date upon which actual possession of the Premises or a portion thereof, as the case may be, is acquired by any lawful power or authority, or the date in which title vests in such lawful power or authority. The rent required to be paid by Lessee shall be paid up to the date of such Taking. Lessee shall in all respects keep, observe, and perform all the terms and conditions of this Agreement up to the date of such Taking.

County agrees to promptly notify Lessee of any eminent domain proceeding, and Lessee, at its sole cost and expense, will be entitled to join such proceeding and to defend Lessee's interest in the Premises affected by such proceeding, and, to the extent permitted by law, to be awarded damages attributable to the value of Lessee's unexpired leasehold estate in the Premises. If at

any time during the Term a Taking of less than the whole of the Premises shall occur, rent shall thereafter be reduced in proportion to the reduction in the rentable area of the Premises.

Termination of this Agreement by County shall not be deemed a taking under any eminent domain or other law so as to entitle Lessee to compensation for any interest suffered or lost as a result of termination of this Agreement, including any residual interest in the Agreement, or any other facts or circumstances arising out of or in connection with this Agreement.

13.42. Notices. Unless otherwise stated herein, for notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail, with a contemporaneous copy via e-mail to the addresses listed below, and shall be effective upon mailing. The addresses for notice shall remain as set forth in this section unless and until changed by providing notice of such change in accordance with the provisions of this section.

FOR BROWARD COUNTY:

Chief Executive/Port Director
Port Everglades Department
1850 Eller Drive, Suite 604
Fort Lauderdale, Florida 33316
Email address: jdaniels@broward.org

FOR LESSEE:

Attn: Meghan Russell, CFO
A.G. Royce Metal Marketing, LLC d/b/a Concrete Reinforcing Products
1381 Sawgrass Corporate Parkway
Sunrise, Florida 33323
Email: mrussell@crpsteel.com

13.43. Compliance with Laws. Lessee and Lessee's officers, agents, employees, partners, contractors, subcontractors, sublessees, guests, and invitees shall comply with all present and future applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement, including any governing the operation, maintenance, and use of the Port.

13.44. Public Entity Crime Act. Lessee represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, Lessee further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Lessee has been placed on the convicted vendor list. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this section is false, County shall

have the right to immediately terminate this Agreement and recover all sums paid to Lessee under this Agreement.

13.45. Scrutinized Companies List. The Agreement may also be terminated for cause if Lessee is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, or if Lessee provides a false certification submitted pursuant to Section 287.135, Florida Statutes.

13.46. Police/Regulatory Powers. County cannot, and hereby specifically does not, waive or relinquish any of its regulatory approval or enforcement rights and obligations as it may relate to regulations governing the Premises, any Improvements thereon, or any operations at the Premises. Nothing in this Agreement shall be deemed to create an affirmative duty of County to abrogate its sovereign right to exercise its police powers and governmental powers by approving or disapproving or taking any other action in accordance with its zoning and land use codes, administrative codes, ordinances, rules, and regulations, federal laws and regulations, state laws and regulations, and grant agreements. In addition, nothing in this Agreement shall be considered zoning by contract.

13.47. Visual Artists' Rights Act. With respect to construction or installation of any Improvements at the Premises and regarding the requirements of the federal Visual Artists Rights Act of 1990, 17 USC §§ 106A and 113 (the "Act"), Lessee shall not (i) hire any artist or permit any sublessee to hire any artist for the purpose of installing or incorporating any work of art into or at the Premises; or (ii) permit the installation or incorporation of any work of art in or at the Premises without the prior written approval of County. Lessee shall provide such reasonable documentation as County may request in connection with any request for such approval and the approval of County may be conditioned upon the execution by the artist of a waiver of the provisions of the Act, in form and substance acceptable to County.

13.48. Contingency Fee. Lessee represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Lessee, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. If County learns that this representation is false, County shall have the right to terminate this Agreement without any further liability to Lessee. Alternatively, if such representation is false, County, at its sole discretion, may deduct from the compensation due Lessee under this Agreement the full amount of such fee, commission, percentage, gift, or consideration.

13.49. Drug-Free Workplace. It is a requirement of County that it enter into contracts only with firms that certify the establishment of a drug-free workplace in accordance with Section 21.31(a)(2) of the Broward County Code of Ordinances. Execution of this Agreement by Lessee shall serve as Lessee's required certification that it has a drug-free workplace program in accordance with Section 287.087, Florida Statutes, and Section 21.31(a)(2) of the Broward

County Code of Ordinances, and that it will maintain such drug-free workplace program for the full term of this Agreement.

13.50. Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

13.51. Florida Clean Indoor Air Act. Pursuant to Chapter 386, Florida Statutes, and Chapter 18.38, Broward County Administrative Code, Lessee acknowledges that the Premises is designated as a "No Smoking" facility. Furthermore, Lessee agrees to prohibit smoking by employees, visitors, agents, and invitees except in posted designated areas as defined by Florida law.

13.52. Port Department Authority. Unless expressly stated otherwise in this Agreement or otherwise set forth in an applicable provision of the Broward County Procurement Code, Broward County Code of Ordinances, or Broward County Administrative Code, the Port Everglades may act on behalf of County under this Agreement.

13.53. Use of County Name or Logo. Lessee shall not use County's name or logo in marketing or publicity materials without prior written consent from the Port Director.

13.54. No Recordation of Agreement. Lessee shall not record this Agreement or any memorandum thereof in the Official Records of Broward County, Florida.

13.55. Representation of Authority. Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

13.56. Successors and Assigns Bound. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties hereto.

13.57. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, whether signed physically or electronically, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, 20__, and A.G. Royce Metal Marketing, LLC d/b/a Concrete Reinforcing Products, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

By: _____
Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

By: _____
Mayor
____ day of _____, 20__

Approved as to form by
Andrew J. Meyers
Broward County Attorney
1850 Eller Drive, Suite 302
Fort Lauderdale, Florida 33316
Telephone: (954) 323-3404

By _____
Carlos Rodriguez-Cabarrocas (Date)
Senior Assistant County Attorney

**MARINE TERMINAL LEASE AND OPERATING AGREEMENT BETWEEN BROWARD COUNTY AND A.G.
ROYCE METAL MARKETING, LLC d/b/a CONCRETE REINFORCING PRODUCTS**

Lessee

A.G. Royce Metal Marketing, LLC
d/b/a Concrete Reinforcing Products

By: _____
Authorized Signer

Print Name and Title

_____ day of _____, 20__

Exhibit A

DESCRIPTION:

A PORTION OF PARCELS A AND B, PORT EVERGLADES INDUSTRIAL PARK SECTION THREE ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 148, PAGE 2; TOGETHER WITH A PORTION OF PARCEL A, PORT EVERGLADES INDUSTRIAL PARK SECTION FOUR ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 148, PAGE 3; TOGETHER WITH A PORTION OF THE RIGHT-OF-WAY FOR MCINTOSH ROAD, NOW VACATED BY OFFICIAL RECORDS BOOK 46258, PAGE 1951, ALL AS RECORDED IN THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE MOST SOUTHERLY NORTHEAST CORNER OF PARCEL A, OF SAID PORT EVERGLADES INDUSTRIAL PARK SECTION FOUR; THENCE SOUTH 73°10'48" WEST, ALONG THE SOUTH LINE OF SAID PARCEL A, A DISTANCE OF 2040.89 FEET; THENCE NORTH 02°18'03" EAST, A DISTANCE OF 439.52 FEET TO THE POINT OF BEGINNING; THENCE NORTH 87°13'06" WEST, A DISTANCE OF 219.14 FEET; THENCE NORTH 02°17'38" EAST, A DISTANCE OF 77.62 FEET; THENCE NORTH 87°42'26" WEST, A DISTANCE OF 110.32 FEET; THENCE NORTH 04°00'40" EAST, A DISTANCE OF 56.28 FEET; THENCE NORTH 86°30'59" WEST, A DISTANCE OF 57.83 FEET; THENCE SOUTH 02°51'24" WEST, A DISTANCE OF 57.46 FEET; THENCE NORTH 87°42'26" WEST, A DISTANCE OF 88.90 FEET; THENCE NORTH 02°32'16" EAST, A DISTANCE OF 343.83 FEET; THENCE NORTH 73°56'46" EAST, A DISTANCE OF 351.52 FEET; THENCE SOUTH 02°18'03" WEST, A DISTANCE OF 217.82 FEET; THENCE SOUTH 87°42'26" EAST, A DISTANCE OF 140.00 FEET; THENCE SOUTH 02°18'03" WEST, A DISTANCE OF 185.46 FEET; THENCE NORTH 84°57'06" WEST, A DISTANCE OF 40.74 FEET; THENCE NORTH 05°11'43" EAST, A DISTANCE OF 60.82 FEET; THENCE NORTH 86°59'06" WEST, A DISTANCE OF 55.70 FEET; THENCE SOUTH 05°19'32" WEST, A DISTANCE OF 119.05 FEET; THENCE SOUTH 87°16'35" EAST, A DISTANCE OF 99.59 FEET; THENCE SOUTH 02°18'03" WEST, A DISTANCE OF 74.47 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF HOLLYWOOD, BROWARD COUNTY, FLORIDA CONTAINING 3.94 ACRES (171,467.8 SQUARE FEET) MORE OR LESS.

NOTES:

1. THIS IS NOT A SKETCH OF SURVEY, BUT ONLY A GRAPHIC DEPICTION OF THE DESCRIPTION SHOWN HEREON. THERE HAS BEEN NO FIELD WORK, VIEWING OF THE SUBJECT PROPERTY, OR MONUMENTS SET IN CONNECTION WITH THE PREPARATION OF THE INFORMATION SHOWN HEREON.

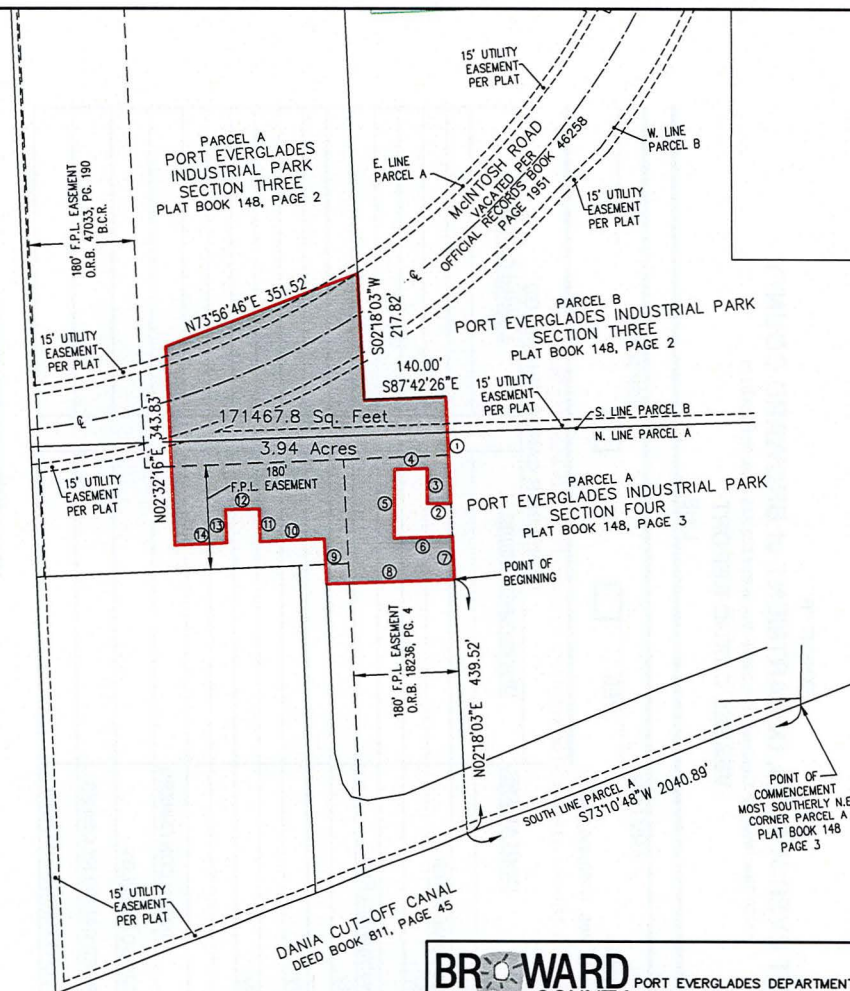
2. THE PROPERTY SHOWN HEREON WAS NOT ABSTRACTED FOR OWNERSHIP, RIGHTS-OF-WAY, EASEMENTS OR OTHER MATTERS OF RECORD, THIS IS NOT A SURVEY.

3. SUBSURFACE UTILITIES, FOUNDATIONS, PIPELINES, ENCROACHMENTS, ETC. WERE NOT LOCATED AND ARE NOT SHOWN.

4. BEARINGS SHOWN HEREON REFER TO PORT EVERGLADES INDUSTRIAL PARK SECTION FOUR P.B. 148, PG. 03, B.C.R.

LINE TABLE:

- ① S. 02°18'03" W. 185.46'
- ② N. 84°57'06" W. 40.74'
- ③ N. 05°11'43" E. 60.82'
- ④ N. 86°59'06" W. 55.70'
- ⑤ S. 05°19'32" W. 119.05'
- ⑥ S. 87°16'35" E. 99.59'
- ⑦ S. 02°18'03" W. 74.47'
- ⑧ N. 87°13'06" W. 219.14'
- ⑨ N. 02°17'38" E. 77.62'
- ⑩ N. 87°42'26" W. 110.32'
- ⑪ N. 04°00'40" E. 56.28'
- ⑫ N. 86°30'59" W. 57.83'
- ⑬ S. 02°51'24" W. 57.46'
- ⑭ N. 87°42'26" W. 88.90'



BROWARD COUNTY PORT EVERGLADES DEPARTMENT
Hollywood/Ft. Lauderdale/Dania

PROJECT: 3.94 ACRE LEASE TO
A.G. ROYCE METAL MARKETING

DESIGNED:	DRAWN:	CHECKED:	DRAWING NO.:
DATE: 12/21/17	SCALE: 1" = 200'	CADD FILE:	SHEET: 1 OF 1

EXHIBIT "B"
PORT EVERGLADES, DEPARTMENT of BROWARD COUNTY

1850 Eller Drive, Ft. Lauderdale FL33316 Voice:954.523.3404 Fax:954.524.0170

VESSEL CARGO REPORT

AGENT:

LINE:

VESSEL NAME:

ARV Date:

DEP Date:

Vessel Sharing Agreement:

YES ☐

NO ☐

(If yes, indicate lines):

Note: A separate report must be submitted for each shipping line sharing the vessel.

CONTAINER CARGO WHARFAGE		
CONTAINERS	Discharged/Inbound	Loaded/Outbound
20' Containers - Empty		
20' Containers - Full		
20' Containers - Transshipment Full		
40' Containers - Empty		
40' Containers - Full		
40' Containers - Transshipment Full		
45' Containers - Empty		
45' Containers - Full		
48' Containers - Empty		
48' Containers - Full		
53' Containers - Empty		
53' Containers - Full		
Chassis - Empty		
TOTAL CONTAINERS		
TOT CONTAINERIZED CARGO KILO/LBS		
TOT RORO CONTAINERIZED CARGO KILOS/LBS		
TOT TRANSSHIPMENT CONT CARGO KILO/LBS		

BREAK BULK/BULK		NON-CONTAINERIZED CARGO			
	Total Quantity	Tot Wt	Total Quantity	Tot Wt	
AGGREGATE					
ALUMINUM SILICATE					
AUTOMOBILES					
AUTOMOBILES-RORO - PCC					
GENERAL CARGO					
BUSES					
CEMENT (BULK)-BC03					
CEMENT CLINKERS					
CEMENT-PALLETIZED-BC10					
COAL					
COFFEE					
GYPSUM					
HARD/PARTICLE BOARD					
LUMBER (MBFT)					
NEWSPRINT/LINER BOARD					
PLYWOOD					
ROCK OR SAND					
SCRAP METAL					
SCRAP/WASTE PAPER					
STEEL					
STEEL COILS					
STEEL REBAR (BUNDLES)					
SUGAR (BULK)					
TALLOW					
TRACTORS					
TRAILERS					
TRUCKS					
YACHTS/BOATS					
YACHTS/BOATS FLOATING					
TOTAL BREAK BULK WEIGHT					
TOTAL BILL OF LADINGS					
TOTAL EMPTIES/CHASSIS					
TOTAL MANIFEST WEIGHT					

Prepared by and Certified in
Accordance with Ship's Manifest

Contact No:

Email address:

Date:

EXHIBIT C – STATEMENT OF COMPLIANCE

No. _____

Agreement No. _____ Project Title _____

The undersigned Lessee hereby swears under penalty of perjury that, during the period covered by the application for payment to which this statement is attached, all mechanics, laborers, and apprentices, employed or working on the site of the project, have been paid at wage rates, and that the wage rates of payments, contributions, or costs for fringe benefits have not been less than those required by Section 26-5, Broward County Code of Ordinances, and the applicable conditions of this Agreement.

Dated _____, _____,

Lessee

By _____
(Signature)

By _____
(Name and Title)

STATE OF)
)
COUNTY OF)

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 20__, by _____, who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

NOTARY PUBLIC:

Signature: _____

Print Name: _____

State of Florida at Large (Seal)

My commission expires:

INSURANCE REQUIREMENTS

Project: A.G. Royce Metal Marketing, LLC D/B/A/ Concrete Reinforcing Products
Agency: Port Everglades Operations

TYPE OF INSURANCE	ADD L INSD	SUBR WVD	MINIMUM LIABILITY LIMITS		
				Each Occurrence	Aggregate
GENERAL LIABILITY - Broad form ☒ Commercial General Liability ☒ Premises-Operations ☐ XCU Explosion/Collapse/Underground ☒ Products/Completed Operations Hazard ☒ Contractual Insurance ☒ Broad Form Property Damage ☒ Independent Contractors ☒ Personal Injury Per Occurrence or Claims-Made: ☒ Per Occurrence ☐ Claims-Made Gen'l Aggregate Limit Applies per: ☐ Project ☐ Policy ☐ Loc. ☐ Other _____	☒	☒	Bodily Injury		
			Property Damage		
			Combined Bodily Injury and Property Damage	\$1,000,000	\$2,000,000
			Personal Injury		
			Products & Completed Operations		
AUTO LIABILITY ☒ Comprehensive Form ☒ Owned ☒ Hired ☒ Non-owned ☒ Any Auto, If applicable <i>Note: May be waived if no driving will be done in performance of services/project.</i>	☒	☒	Bodily Injury (each person)		
			Bodily Injury (each accident)		
			Property Damage		
			Combined Bodily Injury and Property Damage	\$1,000,000	
☐ EXCESS LIABILITY / UMBRELLA Per Occurrence or Claims-Made: ☐ Per Occurrence ☐ Claims-Made <i>Note: May be used to supplement minimum liability coverage requirements.</i>					
☒ WORKER'S COMPENSATION <i>Note: U.S. Longshoremen & Harbor Workers' Act & Jones Act is required for any activities on or about navigable water.</i>	N/A	☒	Each Accident	STATUTORY LIMITS	
☒ EMPLOYER'S LIABILITY			Each Accident	\$1,000,000	
☒ POLLUTION / ENVIRONMENTAL LIABILITY	☒	☒	If claims-made form:	\$1,000,000	\$2,000,000
			Extended Reporting Period of:		
			*Maximum Deductible:	\$100,000	
☐ PROFESSIONAL LIABILITY (ERRORS & OMISSIONS) All engineering, surveying and design professionals.			If claims-made form:		
			Extended Reporting Period of:		
			*Maximum Deductible:		
☐ Installation floater is required if Builder's Risk or Property are not carried. <i>Note: Coverage must be "All Risk", Completed Value.</i>			*Maximum Deductible (Wind and/or Flood):		
			*Maximum Deductible:		

Description of Operations: "Broward County" shall be listed as Certificate Holder and endorsed as an additional insured for liability, except as to Professional Liability. County shall be provided 30 days written notice of cancellation, 10 days' notice of cancellation for non-payment. Vendor insurance shall provide primary coverage and shall not require contribution from the County, self-insurance or otherwise. Any self-insured retention (SIR) must be declared to and approved by County and may require proof of financial ability to meet losses. Vendor is responsible for all coverage deductibles unless otherwise specified in the agreement.

CERTIFICATE HOLDER:

Broward County
1850 Eller Drive
Fort Lauderdale, Florida 33316

Norma

Dmytriw

Digitally signed by
Norma Dmytriw

Date: 2022.08.18

Risk Management Division 10:30:14 -04'00'