



**SECOND AMENDMENT TO MARINE TERMINAL LEASE AND OPERATING AGREEMENT  
BETWEEN BROWARD COUNTY AND FLORIDA INTERNATIONAL TERMINAL, LLC**

This Second Amendment ("Second Amendment") is entered between Broward County, a political subdivision of the State of Florida ("County"), and Florida International Terminal, LLC, a Florida limited liability company ("Terminal Operator") (collectively referred to as the "Parties").

**RECITALS**

A. The Parties entered into a Marine Terminal Lease and Operating Agreement, dated December 8, 2015 (the "Original Agreement"), pursuant to which Terminal Operator leased from County the Current Premises, consisting of approximately 36.03 acres, to be used solely as a modern container terminal yard facility with related storage, space, office, and ancillary uses, with an Initial Term of July 1, 2015, through June 30, 2025, and two five-year Option Terms. Terminal Operator agreed to pay, among other things, rent and a per container (shipmove) rate with an annual minimum guaranteed payment. On certain future dates, Terminal Operator was to move from the Current Premises to the Interim Premises, and then to the Final Premises, all with certain rate adjustments; provided, however, the Parties agreed to renegotiate the per container (shipmove) rates and annual minimum guaranteed payment in good faith at some future time before the Final Premises Effective Date.

B. The Original Agreement was amended by a First Amendment, dated February 26, 2019, which, among other things, modified the Interim Premises to be the same as the Final Premises (approximately 46.6 acres), revised the Interim Premises Effective Date and Final Premises Effective Date, modified the rental rate for the Interim Premises, modified the berthing and gantry crane assignment provisions, and modified the early termination rights of Terminal Operator. The Original Agreement, as amended by the First Amendment, is referred to herein as the "Agreement."

C. On August 8, 2023, in accordance with Article 1, Section C of the Agreement, the Port Everglades Chief Executive Officer/Port Director notified Terminal Operator that the Port Everglades Southport Turning Notch Construction Project would be complete on or about December 5, 2023, and, as such, the Final Premises Effective Date would be December 5, 2023.

D. The Parties now desire to amend the Agreement to, among other things, reflect Terminal Operator's exercise of both Option Terms, memorialize the Final Premises Effective Date, restructure the rental rate and per container (shipmove) rate (with the related minimum guaranteed payment) into an "all in" bundled rate, increase the credit to Terminal Operator for certain improvements to be made to the Final Premises by Terminal Operator, and update miscellaneous provisions.

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

1. The above Recitals are true and correct and are incorporated herein by reference. All capitalized terms not expressly defined within this Second Amendment shall retain the meaning ascribed to such terms in the Agreement.

2. Unless otherwise expressly stated herein, amendments to the Agreement made pursuant to this Second Amendment are indicated herein by use of strikethroughs to indicate deletions and underlining to indicate additions. Except as modified herein, all remaining terms and conditions of the Agreement shall remain in full force and effect.

3. Article 1 of the Agreement is amended to read as follows (original underlining omitted):

**1. CURRENT PREMISES, INTERIM PREMISES, AND FINAL PREMISES**

...

**C. FINAL PREMISES**

Effective ~~December 31, 2022~~ (County's intended "substantial completion date" for the construction of ~~±25~~ acres of land as a container yard and related marine infrastructure known as the Port Everglades Southport Turning Notch Construction Project ("STNCP")), ~~or such alternative date provided in writing to Terminal Operator by County's Chief Executive/Port Director~~ December 5, 2023 (the "Final Premises Effective Date"), Terminal Operator shall lease and take from County and commence its operations pursuant to the terms and conditions provided herein, that certain real property comprised of ~~±46.6~~ acres of land together with all appurtenances, rights, privileges, and hereditaments thereto, and all improvements thereon, located at Port Everglades, Broward County, Florida, as more particularly described on Exhibit "C" attached hereto and made a part hereof, hereinafter referred to as the "Final Premises." County shall demise the Final Premises to Terminal Operator free of tenancies, perimeter fenced, and asphalt in good state of repair. ~~Terminal Operator shall take occupancy of the Final Premises within ninety (90) calendar days after the Final Premises Effective Date provided in the written notice sent by County's Chief Executive/Port Director.~~ It is the expressed intent of County that the Port Everglades Southport Turning Notch Construction Project ("STNCP") be prosecuted so as to keep Berth 30 operational for Terminal Operator's intended uses.

**D. CONDITION OF CURRENT PREMISES, INTERIM PREMISES, AND FINAL PREMISES**

County makes no representations or warranties whatsoever as to: (i) the condition of the Current Premises, Interim Premises, ~~and or~~ Final Premises described on Exhibit "A," Revised Exhibit "B," and Exhibit "C," respectively, and (ii) whether the Current Premises, Interim Premises, ~~and or~~ Final Premises comply with applicable federal, state, and local laws, ordinances, rules, and regulations. The Current Premises is hereby demised in "**AS IS CONDITION**" and "**WITH ALL FAULTS**," subject to the existing findings contained in the

environmental baseline audit previously performed on the Current Premises attached hereto as Exhibit "D." The Interim Premises and Final Premises shall be demised in "**AS IS CONDITION**" and "**WITH ALL FAULTS,**" subject to the future findings contained in the environmental baseline audits ~~to be conducted by County on both~~ performed on the Interim Premises, and Final Premises ~~as provided herein,~~ attached hereto as Exhibit "E." ~~Not less than thirty (30) calendar days prior to the dates specified herein when Terminal Operator is to take possession and lease the Interim Premises and Final Premises, County shall complete an environmental baseline audit for each parcel of land. The completed environmental baseline audit for the Interim Premises and the completed environmental baseline audit for the Final Premises shall be incorporated into and made a part of this Agreement as Composite Exhibit "E" by reference hereof. County shall remediate, at its sole cost, if necessary, any environmental contamination located on the Interim Premises and Final Premises, that was not caused by Terminal Operator. Terminal Operator hereby releases County from any and all claims, demands, causes of action, damages, fees, costs, and liabilities on account of the condition of the Current Premises, Interim Premises, and Final Premises, and any failure of any of the component parts of the Current Premises, Interim Premises, and Final Premises to be in good and working order, except as provided herein.~~

4. Article 2 of the Agreement is amended to read as follows (original underlining omitted):

**2. TERM; COMMENCEMENT DATE AND OPTIONS TO EXTEND TERM**

The term of this Agreement shall begin on July 1, 2015 ("the Commencement Date") ~~hereof~~ and run for an initial period of ten (10) years ("Initial Term"), subject to each of the Parties' rights of termination as provided herein.

~~"Commencement Date," as used in this Agreement, is hereby deemed by the Parties hereto to be July 1, 2015. TERMINAL OPERATOR Terminal Operator shall have the option to extend the Initial Term of this Agreement for up to two (2) additional five (5) year periods, each being an {"Option Term"} and collectively, the "Option Terms," provided it has kept and remains in compliance with all the terms and conditions of this Agreement. TERMINAL OPERATOR shall give COUNTY's Port Everglades Department's Chief Executive/Port Director written notice of its intent to exercise its option to extend the Initial Term of this Agreement not less than twelve (12) months prior to the expiration date of the Initial Term and if applicable, the expiration date of the first five (5) year Option Term ("Option Notice"). Unless COUNTY, through its Board of County Commissioners, waives the required Option Notice, failure of TERMINAL OPERATOR to comply with the Option Notice requirement shall result in the forfeiture by TERMINAL OPERATOR of its option to extend the Initial Term or then existing Option Term of this Agreement as applicable. Through execution of the Second Amendment to this Agreement, Terminal Operator has exercised both Option Terms, the first of which begins on July 1, 2025, and ends June 30, 2030; and the second of which begins on July 1, 2030, and ends on June 30, 2035.~~

5. Article 4, Section C of the Agreement is replaced in its entirety to read as follows (underlining and strikethroughs omitted):

C. RENTAL PAYMENTS FOR FINAL PREMISES

Effective as of the Final Premises Effective Date, in lieu of separate rental payments for the Final Premises, Terminal Operator shall pay the “all in” bundled rate established in Article 11, which takes into account the market value of the Final Premises. Terminal Operator shall also pay all applicable sales tax due on the rental component of the “all in” bundled rate.

6. Article 11, Section A of the Agreement is amended to read as follows (original underlining omitted):

**11. PER CONTAINER (SHIPMOVES) RATES AND ANNUAL MINIMUM GUARANTEED PAYMENT**

A. PER CONTAINER (SHIPMOVES) RATES

~~COUNTY and TERMINAL OPERATOR acknowledge and agree to~~ Terminal Operator shall pay the following per container (shipmoves) rates (such rates do not include applicable sales tax on crane rental usage) on TERMINAL OPERATOR CARGO handled through ~~TERMINAL OPERATOR’s~~ Terminal Operator’s marine terminal facility on the Current Premises, ~~and~~ Interim Premises, ~~and~~ Final Premises at Port Everglades, Florida, in lieu of payment of Port Everglades Tariff charges for dockage fees (Item No. 320, as may be amended), cargo and container unit wharfage charges (Item Nos. 535 and 537, as may be amended), crane rental fees to include crane setup, shutdown, and crane standby of up to one (1) hour (Item No. 710, as may be amended), and harbormaster fees (Item No. 1100, as may be amended). ~~The per container (shipmoves) rates are based on TERMINAL OPERATOR guaranteeing to COUNTY payment for a minimum of seventy five thousand (75,000) container (shipmoves) of TERMINAL OPERATOR CARGO annually until January 1, 2020 or until an earlier Final Premises Effective Date.~~

Period	Rate Per Container (Shipmove) of TERMINAL OPERATOR CARGO	
	0 – 75,000** Containers (Shipmoves)	75,001+ Containers (Shipmoves)
<u>7/1/15 – 6/30/16</u>	<u>\$43.0630</u>	<u>\$40.5787</u>
<u>7/1/16 – 6/30/17</u>	<u>\$43.5475</u>	<u>\$41.0352</u>
<u>7/1/17 – 6/30/18</u>	<u>\$44.5055</u>	<u>\$41.9380</u>
<u>7/1/18 – 6/30/19</u>	<u>\$45.6017</u>	<u>\$42.9709</u>

<u>Period</u>	<u>Rate Per Container (Shipmove) of TERMINAL OPERATOR CARGO</u>	
	<u>0 – 75,000** Containers (Shipmoves)</u>	<u>75,001+ Containers (Shipmoves)</u>
<u>7/1/19 – 6/30/20</u>	<u>\$46.5119</u>	<u>\$43.8286</u>
<u>7/1/20 – 6/30/21</u>	<u>\$46.6649</u>	<u>\$43.9728</u>
<u>7/1/21 – 6/30/22</u>	<u>\$48.0649</u>	<u>\$45.2920</u>
<u>7/1/22 – 6/30/23</u>	<u>\$49.5068</u>	<u>\$46.6507</u>
<u>7/1/23 – 12/4/23</u>	<u>\$50.9920</u>	<u>\$48.0503</u>

<u>Period</u>	<u>Rate Per Container (Shipmove) of TERMINAL OPERATOR CARGO</u>		
	<u>0 – 125,000** Containers (Shipmoves)</u>	<u>125,001 – 150,000 Containers (Shipmoves)</u>	<u>150,001+ Containers (Shipmoves)</u>
<u>12/5/23 – 12/31/24</u>	<u>\$78.7400*</u>	<u>\$46.0000</u>	<u>\$40.0000</u>
<u>1/1/25 – 12/31/25</u>	<u>\$81.1022*</u>	<u>\$47.6800</u>	<u>\$41.6800</u>
<u>1/1/26 – 12/31/26</u>	<u>\$83.5353*</u>	<u>\$49.4104</u>	<u>\$43.4104</u>
<u>1/1/27 – 12/31/27</u>	<u>\$86.0413*</u>	<u>\$51.1927</u>	<u>\$45.1927</u>
<u>1/1/28 – 12/31/28</u>	<u>\$88.6226*</u>	<u>\$53.0285</u>	<u>\$47.0285</u>
<u>1/1/29 – 12/31/29</u>	<u>\$91.2812*</u>	<u>\$54.9193</u>	<u>\$48.9193</u>

<u>Period</u>	<u>Rate Per Container (Shipmove) of TERMINAL OPERATOR CARGO</u>			
	<u>0 – 125,000 Containers (Shipmoves)</u>	<u>125,001 – 127,188** Containers (Shipmoves)</u>	<u>127,189 – 152,189 Containers (Shipmoves)</u>	<u>152,190+ Containers (Shipmoves)</u>
<u>1/1/30 – 12/31/30</u>	<u>\$94.0197*</u>	<u>\$66.8669</u>	<u>\$56.8669</u>	<u>\$50.8669</u>

<u>Period</u>	<u>Rate Per Container (Shipmove) of TERMINAL OPERATOR CARGO</u>			
	<u>0 – 125,000 Containers (Shipmoves)</u>	<u>125,001 – 129,413** Containers (Shipmoves)</u>	<u>129,414 – 154,414 Containers (Shipmoves)</u>	<u>154,415+ Containers (Shipmoves)</u>
<u>1/1/31 – 12/31/31</u>	<u>\$96.8403*</u>	<u>\$68.8729</u>	<u>\$58.8729</u>	<u>\$52.8729</u>

<u>Period</u>	<u>Rate Per Container (Shipmove) of TERMINAL OPERATOR CARGO</u>			
	<u>0 – 125,000 Containers (Shipmoves)</u>	<u>125,001 – 131,678** Containers (Shipmoves)</u>	<u>131,679 – 156,679 Containers (Shipmoves)</u>	<u>156,680+ Containers (Shipmoves)</u>
<u>1/1/32 – 12/31/32</u>	<u>\$99.7455*</u>	<u>\$70.9391</u>	<u>\$60.9391</u>	<u>\$54.9391</u>

<u>Period</u>	<u>Rate Per Container (Shipmove) of TERMINAL OPERATOR CARGO</u>			
	<u>0 – 125,000 Containers (Shipmoves)</u>	<u>125,001 – 133,982** Containers (Shipmoves)</u>	<u>133,983 – 158,983 Containers (Shipmoves)</u>	<u>158,984+ Containers (Shipmoves)</u>
<u>1/1/33 – 12/31/33</u>	<u>\$102.7378*</u>	<u>\$73.0673</u>	<u>\$63.0673</u>	<u>\$57.0673</u>

<u>Period</u>	<u>Rate Per Container (Shipmove) of TERMINAL OPERATOR CARGO</u>			
	<u>0 – 125,000 Containers (Shipmoves)</u>	<u>125,001 – 136,327** Containers (Shipmoves)</u>	<u>136,328 – 161,328 Containers (Shipmoves)</u>	<u>161,329+ Containers (Shipmoves)</u>
<u>1/1/34 – 12/31/34</u>	<u>\$105.8200*</u>	<u>\$75.2593</u>	<u>\$65.2593</u>	<u>\$59.2593</u>

<u>Period</u>	<u>Rate Per Container (Shipmove) of TERMINAL OPERATOR CARGO</u>			
	<u>0 – 62,500 Containers (Shipmoves)</u>	<u>62,501 – 69,356** Containers (Shipmoves)</u>	<u>69,357 – 81,857 Containers (Shipmoves)</u>	<u>81,858+ Containers (Shipmoves)</u>
<u>1/1/35 – 6/30/35</u>	<u>\$108.9946*</u>	<u>\$77.5171</u>	<u>\$67.5171</u>	<u>\$61.5171</u>

\*These bundled rates are “all-in,” are hereinafter referred to as the “Base Rate,” and have a rental component that equals \$22.74 for 12/5/23 – 12/31/24 that increases by 3% on the first day of each calendar year starting on 1/1/25. Terminal Operator shall continue to pay all applicable sales tax due on the rental component of the “all in” bundled rate.

\*\*These numbers are hereinafter referred to as the "Minimum Container Shipmoves," and are the minimum container shipmoves for the applicable period.

TERMINAL OPERATOR CARGO under the prior Marine Terminal Lease and Operating Agreement dated June 14, 2005, between ~~TERMINAL OPERATOR~~ Terminal Operator and ~~COUNTY~~ County, as amended (the "Prior Agreement"), was defined to include proprietary cargo of the original steamship lines named therein and their "legal successors in interest" referred to herein as ("the Steamship Lines"). . . .

~~1) Beginning on the Commencement Date hereof, the first 75,000 container (shipmoves) of TERMINAL OPERATOR CARGO shall be charged at the rate of (\$43.0630) per container (shipmoves), and all TERMINAL OPERATOR CARGO in excess of 75,000 container (shipmoves) shall be charged at the rate of (\$40.5787) per container (shipmoves);~~

~~2) The TERMINAL OPERATOR CARGO per container (shipmoves) rates shall be adjusted annually, on the anniversary date of the Commencement Date hereof, as follows:~~

~~(a) 75,000 container (shipmoves) rate shall be increased to an amount equal to the product of the 75,000 container (shipmoves) rate during the immediately preceding year multiplied by the CPI multiplier, as provided in Article 4 herein, subject to an annual cap of 3%.~~

~~(b) 75,001 and greater container (shipmoves) rate shall be increased to an amount equal to the product of the 75,001 and greater container (shipmoves) rates during the immediately preceding year multiplied by the CPI multiplier, as provided in Article 4 herein, subject to an annual cap of 3%.~~

~~3) Notwithstanding the foregoing, COUNTY and TERMINAL OPERATOR expressly acknowledge and agree, that both tiers of the then current per container (shipmoves) rates for TERMINAL OPERATOR CARGO and related contract terms, including rental payments, shall be renegotiated in good faith by the Parties hereto within three (3) months prior to the Final Premises Effective Date. The newly renegotiated TERMINAL OPERATOR CARGO per container (shipmoves) rates, rental rates, and related contract terms to be incorporated into an "all in" bundled rate consistent with similarly situated parties, shall be memorialized by an amendment to this Agreement approved and executed by COUNTY's Port Everglades Department's Chief Executive/Port Director and TERMINAL OPERATOR. In the event the Parties hereto are unable to successfully renegotiate the TERMINAL OPERATOR CARGO per container (shipmoves) rates, rental rates, and related contract terms within the aforesaid three (3) month period, this Agreement may be terminated by either Party hereto upon written~~

~~notice to the other Party. In the event either Party hereto elects to terminate this Agreement for failure to successfully renegotiate the TERMINAL OPERATOR CARGO per container (shipmoves) rates, rental rates, and related contract terms, TERMINAL OPERATOR shall quit and surrender the Interim Premises to COUNTY within six (6) months from the date of the written termination notice.~~

4) ~~TERMINAL OPERATOR CARGO per container (shipmoves) rates provided in this Section, section do not include Port Everglades Tariff charges for breakbulk cargo, electricity, water, line handling services, and container crane standby of more than one (1) hour, or any other Port Everglades Tariff charges not specified in subsection 11A hereinabove Article 11, Section A, all of which, shall be billed by COUNTY County and except for line handling services, paid by TERMINAL OPERATOR Terminal Operator at Port Everglades Tariff rates, except fees for line handling services shall be billed to and paid by the ship agent. In no event, shall the adjusted per container (shipmoves) rates established pursuant to this Section be less than the per container (shipmoves) rates in effect during the immediately prior twelve (12) month period. Line handling services are not billed to TERMINAL OPERATOR.~~

~~In determining the number of container (shipmoves) handled by TERMINAL OPERATOR (throughput) on the Current Premises, Interim Premises and Final Premises for the purpose of determining the applicable container (shipmoves) rate for TERMINAL OPERATOR CARGO, TERMINAL OPERATOR shall receive credit for both TERMINAL OPERATOR CARGO and third party container (shipmoves) handled through the Current Premises, Interim Premises and Final Premises.~~

7. The title of Article 11, Section B of the Agreement is amended to read as follows (original underlining omitted):

B. ~~ANNUAL~~ ANNUAL MINIMUM GUARANTEE PAYMENT

8. Article 11, Section B(1) of the Agreement is replaced in its entirety to read as follows (underlining and strikethroughs omitted):

1) MGP. Terminal Operator guarantees and shall pay the following minimum payments ("MGP") to County over the applicable periods ("MGP Period") set forth below:

MGP Period	MGP
7/1/15 – 6/30/16	\$3,229,725.89
7/1/16 – 6/30/17	\$3,266,062.50
7/1/17 – 6/30/18	\$3,337,912.50
7/1/18 – 6/30/19	\$3,420,126.00



MGP Period	MGP
7/1/19 – 6/30/20	\$3,488,392.50
7/1/20 – 6/30/21	\$3,499,869.00
7/1/21 – 6/30/22	\$3,604,865.03
7/1/22 – 6/30/23	\$3,824,401.50
7/1/23 – 12/4/23	\$1,635,411.87
12/5/23 – 12/31/24	\$9,842,500.00
1/1/25 – 12/31/25	\$10,137,775.00
1/1/26 – 12/31/26	\$10,441,908.25
1/1/27 – 12/31/27	\$10,755,165.50
1/1/28 – 12/31/28	\$11,077,820.46
1/1/29 – 12/31/29	\$11,410,155.08
1/1/30 – 12/31/30	\$11,898,731.13
1/1/31 – 12/31/31	\$12,408,989.16
1/1/32 – 12/31/32	\$12,941,916.97
1/1/33 – 12/31/33	\$13,498,548.22
1/1/34 – 12/31/34	\$14,079,964.56
1/1/35 – 6/30/35	\$7,343,648.94

Terminal Operator shall pay County the applicable MGP in equal monthly installments (based on the number of months in such MGP Period) in advance on the first day of each and every month, without demand, setoff, or deduction; provided, however, that payment for any period between the Final Premises Effective Date and the Effective Date of the Second Amendment shall be due sixty (60) calendar days after the Effective Date of the Second Amendment.

9. Article 11, Sections B(2) and B(3) of the Agreement are amended to read as follows (original underlining omitted):

2) Credit. ~~Effective on the Commencement Date hereof and for each and every successive year over the Initial Term hereof~~ Within thirty (30) calendar days after the conclusion of each MGP Period, TERMINAL OPERATOR County shall provide Terminal Operator shall be eligible for with a monetary credit in an amount not to exceed 20% of its required annual the MGP. TERMINAL OPERATOR shall become eligible for a credit only if the total of TERMINAL OPERATOR's actual annual TERMINAL OPERATOR CARGO container (shipmoves) is less than the guaranteed number of TERMINAL OPERATOR's CARGO container (shipmoves) for the prior contract year for such MGP Period if Terminal Operator fails to meet its Minimum Container Shipmoves for such MGP Period. The eligible credit shall equal the product of the amount of TERMINAL OPERATOR's CARGO container (shipmoves) short by which Terminal Operator fails to meet the Minimum Container Shipmoves (the "Short") and the contract year's guaranteed rate for TERMINAL OPERATOR CARGO per container (shipmoves). The amount of

~~TERMINAL OPERATOR's CARGO container (shipmoves) short used to determine the eligible credit cannot exceed the Base Rate for such MGP Period, excluding any rental component; provided, however, that the Short used for such calculation shall not exceed the number of container (shipmoves) handled by TERMINAL OPERATOR Terminal Operator (in the applicable contract year MGP Period) for its third-party clients that do not meet the definition of TERMINAL OPERATOR CARGO.~~

For example, if ~~TERMINAL OPERATOR's annual guaranteed TERMINAL OPERATOR CARGO container (shipmoves)~~ Terminal Operator's Minimum Container Shipmoves is 75,000 for a ~~given year~~ MGP Period, but the actual ~~annual TERMINAL OPERATOR CARGO container (shipmoves)~~ count was 65,000, with third-party container (shipmoves) equaling 12,000, then ~~TERMINAL OPERATOR's Terminal Operator's eligible credit would equal the product of TERMINAL OPERATOR's CARGO 10,000 container (shipmoves), which represents the short Short,~~ and the ~~TERMINAL OPERATOR's CARGO per container (shipmoves) rate Base Rate~~ Base Rate in effect for the ~~given contract year~~ applicable MGP Period. If the number of third-party container (shipmoves) was 4,000 in the ~~given contract year~~ applicable MGP Period, then the ~~eligible monetary credit to TERMINAL OPERATOR Terminal Operator would equal the product of 4,000, which represents the Short reduced to the number of container (shipmoves) handled by Terminal Operator for its third-party clients,~~ and the ~~TERMINAL OPERATOR CARGO per container (shipmoves) rate Base Rate~~ Base Rate in effect for that ~~contract year~~ MGP Period. If ~~TERMINAL OPERATOR's CARGO container (shipmoves) short the Short was 20,000 with third-party container (shipmoves) equaling 15,000, then TERMINAL OPERATOR's eligible monetary the credit would be the maximum allowed of 20% of 75,000 (or 15,000), multiplied by the TERMINAL OPERATOR's CARGO per container (shipmoves) rate Base Rate~~ Base Rate in effect for the ~~given contract year~~ applicable MGP Period. ~~Any monetary credit amount shall be posted to TERMINAL OPERATOR's account and applied in twelve (12) equal installments by COUNTY against TERMINAL OPERATOR's monthly billings commencing not later than September 30<sup>th</sup> of each calendar year. All approved credits shall be applied by the Port Everglades Department, in its sole discretion, to Terminal Operator's monthly invoices, either as a lump sum credit or in equal amounts over a period of no more than twelve (12) months following the date the credits are approved by the Port Everglades Department.~~

~~TERMINAL OPERATOR shall pay COUNTY the applicable contract year's MGP amount in twelve (12) equal monthly installments in advance on the first day of each and every month, without demand, setoff or deduction. Except as otherwise provided herein, in no event, shall any adjusted MGP amount established pursuant to the terms and conditions of this Agreement be less than the MGP amount in effect during the immediately prior twelve (12) month period.~~

3) Reports. ~~MGP required to be paid by TERMINAL OPERATOR hereunder, shall be subject to the payment terms and conditions of this Agreement, including Port Everglades Tariff, and shall include applicable Florida sales tax.~~ In addition to manifests and cargo reports required by Item 915 of the Port Everglades Tariff (which shall be provided by ~~TERMINAL OPERATOR~~ Terminal Operator to the Port Everglades Department within five (5) business days ~~of~~ after a vessel call), ~~TERMINAL OPERATOR~~ Terminal Operator shall report to ~~COUNTY's~~ the Port Everglades Department, on a monthly basis, the total amount of container (shipmoves) throughput, including, but not limited to, TERMINAL OPERATOR CARGO and third-party cargo, handled on the Current Premises, Interim Premises, and Final Premises, as applicable (~~including, all containers (shipmoves) handled by TERMINAL OPERATOR on the Current Premises, Interim Premises, and Final Premises for its third-party clients~~). The manifests and cargo reports shall be provided to said Port Everglades Department within five (5) business days following the end of each month and shall be in the forms attached hereto as composite Exhibit "G" and made a part hereof. Exhibit "G" may be updated at any time by written notice from the Port Everglades Department to Terminal Operator. The ~~COUNTY's~~ Port Everglades Department's Chief Executive/Port Director reserves the right to request ~~TERMINAL OPERATOR~~ Terminal Operator to periodically provide the ~~COUNTY's~~ Port Everglades Department's Finance Division with such other cargo reports/records in order to maintain its statistical database.

10. Article 11, Section B(4) of the Agreement is replaced in its entirety to read as follows (underlining and strikethroughs omitted):

4) Reconciliation. TERMINAL OPERATOR CARGO and all other Tariff charges, plus applicable Florida sales tax, will be billed by County to Terminal Operator on a monthly basis, and shall be paid by Terminal Operator to County in accordance with the terms, conditions, and deadlines set forth in the Tariff. The monthly invoices for TERMINAL OPERATOR CARGO will be offset by the monthly MGP payments paid by Terminal Operator to County at the beginning of each month and any applicable credits. At the end of each MGP Period of this Agreement, County shall recognize as revenue and retain any MGP balance that has not been offset by fees for TERMINAL OPERATOR CARGO during the applicable MGP Period.

11. Article 14, Sections A and B of the Agreement are amended as follows (original underlining omitted):

#### 14. ALTERATIONS; FIXTURES; IMPROVEMENTS AND REQUIRED APPROVALS

##### A. GENERAL

~~TERMINAL OPERATOR~~ Terminal Operator shall not design, develop, construct nor make any alterations, modifications, or replacements to the Current Premises, Interim Premises, or Final Premises, or portions thereof, including, but not limited to, the improvements detailed in Article 14, Section G, for which Terminal Operator may obtain payment credit(s), without the prior written consent of the ~~COUNTY's~~ Port Everglades Chief Executive/Port Director. ~~In the event~~ If any such action is taken or made without said prior written consent, then, upon written notice provided by ~~COUNTY~~ the Port Everglades Department, ~~TERMINAL OPERATOR~~ Terminal Operator shall remove same to the Port Everglades Department's satisfaction. ~~In the event~~ TERMINAL OPERATOR Terminal Operator fails to comply with such written notice, said Port Everglades Department may take all required removal actions and ~~TERMINAL OPERATOR~~ Terminal Operator shall pay the cost thereof to ~~COUNTY~~ County within fifteen (15) calendar days after written demand therefor is sent.

##### B. TITLE TO IMPROVEMENTS AND FIXTURES; REMOVAL

All fixtures, structures, facilities, pavements, and other permanent improvements, and any additions and alterations made to the Current Premises, Interim Premises, and Final Premises (including those that are nailed, bolted, stapled, or otherwise affixed to the Current Premises, Interim Premises, and Final Premises) by ~~TERMINAL OPERATOR~~ Terminal Operator, or at ~~TERMINAL OPERATOR's~~ Terminal Operator's direction (collectively, "Leasehold Improvements"), shall be and remain ~~TERMINAL OPERATOR's~~ Terminal Operator's property until the termination of this Agreement (whether by expiration or otherwise), at which time said ~~improvements~~ Leasehold Improvements shall, at ~~COUNTY's~~ the Chief Executive/Port Director's option, either (i) become ~~COUNTY's~~ County's property and shall be surrendered with and remain on the Current Premises, Interim Premises, and Final Premises, as applicable; or (ii) be removed by ~~TERMINAL OPERATOR~~ Terminal Operator at its sole cost and expense and at the ~~COUNTY's~~ Port Everglades Department's direction.

12. Article 14, Section G of the Agreement is replaced in its entirety to read as follows (underlining and strikethroughs omitted):

##### G. COUNTY PAYMENT CREDIT(S) FOR CERTAIN IMPROVEMENTS

Except as otherwise provided herein, Terminal Operator shall be responsible for all costs and expenses relating to: (i) Terminal Operator's improvements to the Current Premises, Interim Premises, and Final Premises, including, but not limited to, the design, permitting, and construction thereof; and (ii) all other improvements necessary for Terminal Operator's use of the Current Premises, Interim Premises, and Final Premises,

including, but not limited to, improvements mandated by any governmental authority having jurisdiction over same.

Notwithstanding the above, and subject to the requirements provided immediately below, the Port Everglades Department shall provide Terminal Operator with payment credit(s) in a total amount not to exceed Three Million and 00/100 Dollars (\$3,000,000.00) to reimburse Terminal Operator for Capital Expenditures (hereinafter defined) associated with the following Leasehold Improvements on the Final Premises:

- 1) Rubber Tired Gantry ("RTG") Cranes concrete foundation (adjustable concrete beam) – approximately 5,810 linear meters
- 2) Reefer racks – approximately 780 plugs
- 3) New high mast light poles – approximately 7 poles
- 4) Relocation of high mast light poles – approximately 7 poles
- 5) Excavation/disposal of material for RTG Runway Concrete Foundation – approximately 1.50 hectares
- 6) Regrading – utility rearrangement (entire terminal) – approximately 18.70 hectares
- 7) Pavement overlay only (entire terminal excluding runways) – approximately 17.2 hectares
- 8) Striping and fencing (entire terminal) – approximately 18.70 hectares

(collectively, the "Eligible Improvements"). The list of Eligible Improvements can be modified in writing by the Parties via a countersigned letter, with County acting through its Chief Executive/Port Director.

To be eligible for payment credit(s), the applicable Eligible Improvements must be identified by Terminal Operator during the pre-approval process required by Article 14, Section A, as Eligible Improvements for which Terminal Operator may seek payment credit(s), and accompanied during such pre-approval process by at least three (3) quotes that itemize the Capital Expenditures (hereinafter defined), if such quotes are requested by the Port Everglades Department. To qualify as "Capital Expenditures," the costs: (i) must be associated with the Eligible Improvements; (ii) must be approved in advance and in writing by the Port Everglades Department, acting in its reasonable discretion, during the pre-approval process required by Article 14, Section A; (iii) must be incurred after the Effective Date of the Second Amendment to the Agreement, but before December 5, 2026; and (iv) shall be subject to the following:

- 1) Limited to actual third-party costs without any markup;
- 2) Limited to the actual cost of demolition, construction, and acquisition of the Eligible Improvements, plus the cost of required bonds, construction insurance, and building impact and concurrency fees;
- 3) Payments made to independent contractors for “professional services,” as defined in Section 287.055, Florida Statutes, shall not qualify as Capital Expenditures unless specifically approved in advance and in writing by the Port Everglades Department, in its sole discretion, upon Terminal Operator’s separate written request;
- 4) Costs incurred by any Affiliate of Terminal Operator shall not qualify as Capital Expenditures unless specifically approved in advance and in writing by the Port Everglades Department, in its sole discretion, upon Terminal Operator’s separate written request. Such costs must also meet all requirements of this section to be considered for approval by the Port Everglades Department as Capital Expenditures. For purposes of this section, “Affiliate” means a Person who (i) is directly or indirectly controlled by, or under common control with, the Terminal Operator; (ii) owns, directly or indirectly, thirty-five percent (35%) or more of the equity interests of Terminal Operator; (iii) is a general partner, officer, director, nonfinancial institution trustee, or fiduciary of any Person described in (i) or (ii); or (iv) is a son, daughter, spouse, domestic partner, parent, sibling, or in-law of Terminal Operator; and “Person” means any individual, firm, trust, estate, partnership, joint venture, company, corporation, association, or any other legal entity or business enterprise;
- 5) Costs associated with the acquisition or installation of any personalty, including without limitation, furnishings and trade fixtures or equipment not permanently affixed to the Final Premises, shall not qualify as Capital Expenditures;
- 6) Costs of interior decorations (other than standard the Port Everglades Department approved finishes), special finishes, wall tile or other special wall finishes and coverings, construction photographs, special external and internal lighting, and signage shall not qualify as Capital Expenditures unless specifically approved in advance and in writing by the Port Everglades Department, upon the Terminal Operator’s separate written request;
- 7) Costs of financing, interest expenses, administration, supervisory, overhead, and internal costs of Terminal Operator, or of any Affiliates of Terminal Operator, shall not qualify as Capital Expenditures;

8) Costs incurred by an approved leasehold mortgagee will qualify as Capital Expenditures if the costs would otherwise qualify as Capital Expenditures if incurred by Terminal Operator; and

9) Costs incurred by a sublessee of Terminal Operator for Eligible Improvements that are made in accordance with all requirements of this Agreement may be submitted by Terminal Operator in writing to the Port Everglades Department for review and possible written approval to qualify as Capital Expenditures. Any costs incurred by a sublessee before County Port Everglades Department approval shall not qualify as Capital Expenditures.

Terminal Operator may request payment credit(s) for Capital Expenditures once per MGP Period, and any such request must be submitted in writing to the Port Everglades Department no later than ninety (90) calendar days after the end of the MGP Period in which the applicable Capital Expenditures were incurred. To be eligible for payment credit(s), Terminal Operator shall provide the Port Everglades Department with written receipts and any other documentation reasonably requested by the Port Everglades Department to substantiate the Capital Expenditures.

All approved payment credit(s) shall be applied by the Port Everglades Department, in its sole discretion, to Terminal Operator's monthly invoices, either as a lump sum credit or in equal amounts over a period of no more than the number of months in the MGP Period immediately following the MGP Period in which the Capital Expenditures were incurred; provided, however, approved payment credit(s) exceeding a total of One Million and 00/00 Dollars (\$1,000,000.00) in any MGP Period shall be applied by the Port Everglades Department, in its sole discretion, to Terminal Operator's monthly invoices, either as a lump sum credit or in equal amounts over a period of no more than the number of months in the two MGP Periods immediately following the MGP Period in which the Capital Expenditures were incurred.

Notwithstanding the foregoing, Terminal Operator is not entitled to receive any payment credit(s) during any MGP Period in which Terminal Operator failed to meet or exceed its MGP during the immediately prior MGP Period; provided, however, any payment credit(s) may be carried forward to a future MGP Period in which Terminal Operator meets or exceeds its MGP during the immediately prior MGP Period, but no later than the MGP Period ending on December 31, 2027 (except this date can be extended by the Port Everglades Department to the MGP Period ending on December 31, 2028, if the payment credit(s) exceed a total of One Million and 00/00 Dollars (\$1,000,000.00)). All of Terminal Operator's books and records relating to the Capital Expenditures shall be subject to inspection, copying, and audit by County's auditors in accordance with the audit provision in Article 38, and all such books and records shall be made available to County's auditors in Broward County, Florida, as stated in the audit provision of Article 38.

Upon request by the Port Everglades Department, Terminal Operator, at its sole cost and expense, shall provide the Port Everglades Department with a report of the total Capital Expenditures for Eligible Improvements that have been incurred as of the date of the report ("Capital Expenditure Report"). The Capital Expenditures Report shall be accompanied by an independent auditor's report ("Independent Auditor's Report"). The Independent Auditor's Report shall be based on an audit of the costs in the schedule, shall be conducted by a certified public accountant ("CPA") in accordance with generally accepted accounting principles and standards, and shall contain a statement as to whether the Capital Expenditure amounts set forth in the schedule meet the requirements of this Agreement. The Independent Auditor's Report must clearly indicate any items that do not qualify as Capital Expenditures. Terminal Operator shall document, to the satisfaction of the CPA and the Port Everglades Department, that the monies were expended, that the accounting stated is true and correct, and how the Capital Expenditures are eligible to be included in the Capital Expenditures amount. Terminal Operator shall provide, upon request, such invoices and other back-up documentation as may be required by the Port Everglades Department or the CPA.

13. Article 15 of the Agreement is deleted and replaced as follows, but only as it relates to the Final Premises (underlining omitted):

**15. MAINTENANCE AND REPAIR OF FINAL PREMISES**

Lessee shall maintain, clean, and repair the Final Premises (which shall include, without limitation, all improvements thereon) so that it remains in the same condition (*i.e.*, clean, sanitary, and in good working order) as when first received, whether such maintenance, cleaning, or repair be ordinary or extraordinary, structural, or otherwise, excepting only: (a) reasonable wear and tear arising from Lessee's use thereof; and (b) those responsibilities assumed by County as set forth in Exhibit "J."

The responsibility for maintenance, cleaning, and repair of the Final Premises shall be as set forth on Exhibit "J," attached hereto and incorporated herein. Any maintenance, cleaning, or repairs of the Final Premises (which shall include, without limitation, all improvements thereon) that are not set forth on Exhibit "J" shall be the responsibility of Lessee unless otherwise agreed to in writing by the Parties, with County acting through its Chief Executive/Port Director. If there is any conflict between Exhibit "J" and the terms in this article, the terms of Exhibit "J" shall control.

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



any other remedies that may be available to it, maintain, clean, repair, replace, rebuild, or paint all or any part of the Final Premises (or improvements) 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.

Notwithstanding anything stated herein to the contrary, including Exhibit "J," and notwithstanding the order of precedence stated in this section, 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 thirty (30) calendar days after written demand is sent.

14. Article 25 of the Agreement is deleted and replaced as follows (underlining omitted):

**25. INSURANCE**

A. Insurance. For the duration of the Agreement, Lessee shall, at its sole expense, maintain the minimum insurance coverages stated in Exhibit "K" 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 contractors 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.

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

C. Certificates of Insurance. On or before the Effective Date of the Second Amendment, 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.

D. 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 Everglades 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.

E. 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.

F. Broader Coverage. If Lessee maintains broader coverage or higher limits than the minimum insurance requirements stated in Exhibit "K," 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.

G. Self-Insured. Lessee shall declare in writing any self-insured retentions or deductibles over the limit(s) prescribed in Exhibit "K" and submit to County for approval at least fifteen (15) days prior to the Effective Date of the Second Amendment. 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.

H. 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.

I. Contractor/Subcontractor Insurance. Lessee shall require each contractor (and each contractor's subcontractor) to maintain insurance coverage that adequately covers the services provided by such contractor/subcontractor. Lessee shall ensure that all such contractors/subcontractors comply with these requirements and that "Broward County" is named as an additional insured under the contracts'/subcontractors' applicable insurance policies.

J. Failure to Maintain Insurance. If Lessee or any contractor (or any contractor's 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 contractor/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 contractor's/subcontractor's compliance with this article.

K. 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 of the Second Amendment; (2) the required coverage must be maintained after termination or expiration of the Agreement for at least the duration stated in Exhibit "K;" 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 of the Second Amendment, 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 "K."

15. Article 37, Section K of the Agreement is amended as follows (original underlining omitted):

K. PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision or any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through ~~37~~ 38 of this Agreement shall prevail and be given effect.

16. Article 38 is added to the Agreement as follows (underlining omitted):

**38. ADDITIONAL MISCELLANEOUS TERMS**

A. Discriminatory Vendor and Scrutinized Companies List; Countries of Concern. Terminal Operator represents that it has not been placed on the "discriminatory vendor list" as provided in Section 287.134, Florida Statutes, and that it is not a "scrutinized company" pursuant to Sections 215.473 or 215.4725, Florida Statutes. Terminal Operator represents and certifies that it is not, and for the duration of the term will not be, ineligible to contract with County on any of the grounds stated in Section 287.135, Florida Statutes. Terminal Operator represents that it is, and for the duration of the term will remain, in compliance with Section 286.101, Florida Statutes.

B. Prohibited Telecommunications Equipment. Terminal Operator represents and certifies that Terminal Operator does 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. Terminal Operator represents and certifies that Terminal Operator shall not provide or use such covered telecommunications equipment, system, or services during the term.

C. Polystyrene Food Service Articles. Terminal Operator shall not sell or provide for use on County property expanded polystyrene products or food service

articles (e.g., Styrofoam), unencapsulated expanded polystyrene products, or single-use plastic straws or stirrers, as set forth in more detail in Section 27.173, Broward County Administrative Code.

D. Drug-Free Workplace. If required under Section 21.23(f), Broward County Administrative Code, or Section 287.087, Florida Statutes, Terminal Operator certifies that it has and will maintain a drug-free workplace program throughout the term.

E. Prevailing Wage Requirement. If construction work in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) is required of, or undertaken by, Terminal Operator as a result of this Agreement, then Section 26-5 of the Broward County Code of Ordinances shall be deemed to apply to such construction work. Terminal Operator shall fully comply with the requirements of such ordinance and shall satisfy, comply with, and complete the requirements set forth in Exhibit "L."

F. Domestic Partnership Requirement. Unless this Agreement is exempt from the provisions of the "Broward County Domestic Partnership Act," Section 16½-157 of the Code ("Act"), Terminal Operator certifies and represents that it shall at all times comply with the provisions of the Act. The contract language referenced in the Act is deemed incorporated in this Agreement as though fully set forth in this section.

G. Audit Rights and Retention of Records. County shall have the right to audit the books, records, and accounts of Terminal Operator and all contractors/sublessees that are related to this Agreement. Terminal Operator and all contractors/sublessees shall keep such books, records, and accounts as may be necessary to record complete and correct entries related to this Agreement and performance under this Agreement. All such books, records, and accounts shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Terminal Operator and all contractors/sublessees shall make same available in written form at no cost to County. Terminal Operator shall provide County with reasonable access to Terminal Operator's facilities, and County shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement.

Terminal Operator and all contractors/sublessees shall preserve and make available, at reasonable times within Broward County, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for at least three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. This article shall survive any dispute or litigation between the Parties, and Terminal Operator expressly acknowledges and agrees to be bound by this article throughout the course of any dispute or litigation with County. Any audit or inspection pursuant to this section may be performed by any County representative (including any outside representative engaged by County). Terminal Operator hereby grants County the right to conduct such audit or review at Terminal Operator's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice. Terminal Operator shall make all

such records and documents available electronically in common file formats or via remote access if, and to the extent, requested by County.

If an audit or inspection in accordance with this section reveals underpayments to County of any nature by Terminal Operator in excess of five percent (5%) of the applicable contract billings reviewed by County, in addition to making adjustments for the underpayments, Terminal Operator shall pay the reasonable cost of County's audit. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days after presentation of County's findings to Terminal Operator.

Terminal Operator shall ensure that the requirements of this section are included in all agreements with all contractor(s)/sublessee(s).

H. Ownership Disclosure Form. By January 1 of each year, Terminal Operator must submit an Ownership Disclosure Form (or such other form or information designated by County), available at <https://www.broward.org/econdev/Pages/forms.aspx>, identifying the ownership of the entity and indicating whether the entity is majority-owned by persons fitting specified classifications.

I. County Business Enterprise ("CBE") Goals. Terminal Operator shall comply with all applicable requirements of Section 1-81, Broward County Code of Ordinances, as may be amended, in the development, construction, or modification of any Leasehold Improvements. Before the commencement of such Leasehold Improvements, the Office of Economic and Small Business Development shall be provided any requested documentation to evaluate the applicability of a CBE goal. If a CBE goal is established, the Parties must amend this Agreement, with County acting through its Chief Executive/Port Director, to incorporate the CBE goal for such Leasehold Improvements and all CBE requirements. Failure by Terminal Operator to carry out any of the requirements of this paragraph shall constitute a material breach of this Agreement, which shall permit County to terminate this Agreement or exercise any other remedy provided under this Agreement, the Broward County Code of Ordinances, the Broward County Administrative Code, or applicable laws, all such remedies being cumulative. For purposes of this paragraph, "County Business Enterprise" or "CBE" means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.

17. The amount of the payment bond or irrevocable letter of credit required by Article 5, Section B is hereby increased to the amount of One Million Five Hundred Ninety Thousand Four Hundred Seventeen and 00/100 Dollars (\$1,590,417.00).

18. Exhibit E, attached to the Agreement, is replaced by Exhibit E as attached hereto, which is incorporated in the Agreement. All references to Exhibit E in the Agreement, as amended, are deemed to refer to the Exhibit E as attached hereto.

19. Exhibit J, attached hereto, is incorporated in the Agreement. All references to Exhibit J in the Agreement, as amended, are deemed to refer to the Exhibit J as attached hereto.

20. Exhibit K, attached hereto, is incorporated in the Agreement. All references to Exhibit K in the Agreement, as amended, are deemed to refer to the Exhibit K as attached hereto.

21. Exhibit L, attached hereto, is incorporated in the Agreement. All references to Exhibit L in the Agreement, as amended, are deemed to refer to the Exhibit L as attached hereto.

22. In the event of any conflict or ambiguity between this Second Amendment and the Agreement, the Parties agree that this Second Amendment shall control. The Agreement, as amended herein by this Second Amendment, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter hereof that are not contained in the Agreement as amended in this Second Amendment. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

23. Preparation of this Second Amendment has been a joint effort of the Parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.

24. Terminal Operator acknowledges that through the date this Second Amendment is executed by Terminal Operator, Terminal Operator has no claims or disputes against County with respect to any of the matters covered by the Agreement.

25. The effective date of this Second Amendment shall be the last day executed by the Parties ("Effective Date").

26. This Second Amendment 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.

*(The remainder of this page is blank.)*

IN WITNESS WHEREOF, the Parties hereto have made and executed this Second Amendment: 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 \_\_\_\_\_, 2024, and FLORIDA INTERNATIONAL TERMINAL, LLC, signing by and through its Chairman, 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  
Port Everglades Department  
1850 Eller Drive, Suite 302  
Fort Lauderdale, Florida 33316  
Telephone: (954) 523-3404


By CARLOS A. RODRIGUEZ-CABARROCAS  
Carlos Rodriguez-Cabarrocas (Date)  
Senior Assistant County Attorney

Digitally signed by CARLOS  
A. RODRIGUEZ-CABARROCAS  
Date: 2024.05.24 13:47:26  
-04'00'

CRC/dh  
FIT MTO 2nd Amendment - 5.18.24 Final  
05/20/2024  
#80040-2066

SECOND AMENDMENT TO MARINE TERMINAL LEASE AND OPERATING AGREEMENT  
BETWEEN BROWARD COUNTY AND FLORIDA INTERNATIONAL TERMINAL, LLC

TERMINAL OPERATOR

By:   
Authorized Signer

MAURICIO CARRASCO MEDINA  
Print Name and Title PRESIDENT OF THE BOD

24<sup>th</sup> day of MAY, 2024





Port Everglades Department  
SEAPORT ENGINEERING AND FACILITIES MAINTENANCE DIVISION  
1850 Eller Drive, Fort Lauderdale, Florida 33316-4201 • 954-468-0142 • FAX 954-468-3436

**EXHIBIT E  
MEMORANDUM**

Date: March 4, 2021

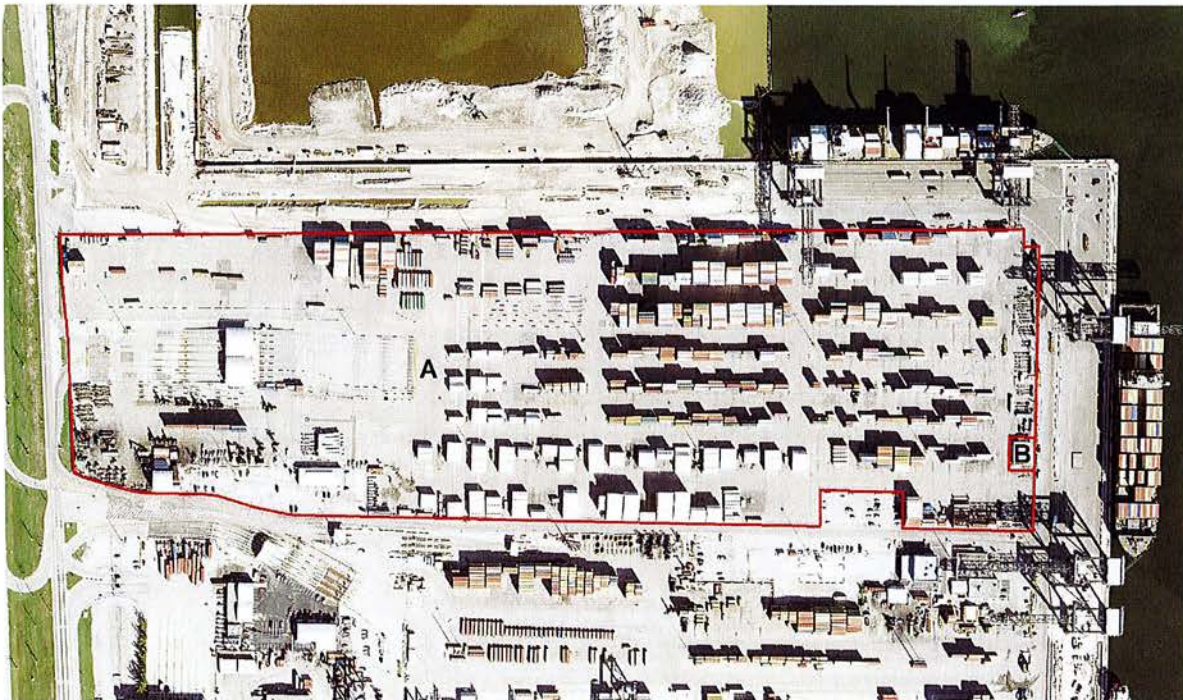
To: Josh Miller, Property Manager

From: Erik Neugaard, Environmental Program Manager

Subject: Florida International Terminals Lease - Environmental Baseline

On 08/24/18, 10/12/18, 10/25/18, and 03/03/21 visual inspections of the previous King Ocean Services Limited (Cayman Islands) Incorporated and current Florida International Terminals Incorporated lease site, at 4000 McIntosh Road, were conducted by Erik Neugaard, Port Everglades Environmental Program Manager to identify obvious environmental concerns. The visual inspections included the red-bounded area "A" shown below; and were made from a passenger van.

The site has a Broward County Environmental Protection and Growth Management Department Hazardous Materials License (HM-10674) and was last inspected on 2/25/19, with no significant contamination concerns noted, and the license was renewed on 3/1/20 with an expiration date of 2/28/22. In addition, the site has a Florida Department of Environmental Protection Storage Tank Permit (069808593) but no storage tanks are registered. No regulatory records of contamination were found.



Florida International Terminals Lease - Environmental Baseline  
March 4, 2021  
Page 2

Historical aerial photographs from 01/25/95, 02/20/99, 12/24/99, 12/31/01, 01/28/03, 12/31/03, 04/23/03, 02/23/04, 11/30/05, 02/28/06, 04/05/06, 01/19/07, 05/07/07, 12/30/08, 03/31/10, 12/31/09, 03/26/11, 10/19/12, 03/06/13, 01/18/14, 04/02/14, 12/15/14, 01/23/16, 03/21/17, 04/06/17, 12/13/17, 12/16/18, and 02/02/20, 03/30/20 were also reviewed to identify obvious concerns.

#### Background and Discussion

The site immediately north of the subject site at 3800 McIntosh Road, was built over the former Port Everglades Central Disposal Dump, but no contamination impacts to the subject site have been identified.

No previous contamination assessments have been identified for the subject site. The subject site is also within the area named "Port Everglades Southport Container Facility" and licensed by the Broward County Department of Environmental Protection and Growth Management Department (EPGMD) as a Hazardous Material Management Facility (POSSEE Facility Number 02308); and is inspected by EPGMD. EPGMD has not identified any significant compliance violations or indications of contaminant discharges.

During the site inspection conducted on 03/03/21, some oil-stained areas of asphalt were identified but overall, the site appeared to be maintained. No other contamination concerns were observed during the site inspections or from the review of historical aerial photographs.

Representative photos from the visual inspection of the site conducted 03/03/21 are available upon request from the Seaport Engineering and Facilities Maintenance Division.

#### Findings

No indication of significant contamination was observed. However, it is recommended that the oil-stained areas of asphalt be cleaned, without allowing the runoff to enter the storm drains, and the storm drains be cleaned of any debris and oily residue.

Exhibit J

### Maintenance Responsibilities

	County	FIT
<b>Exterior Site Improvements:</b>		
Fencing		X
Gates		X
Lighting (light fixtures, junction box & poles)		X
Highmast Lights	X	
Lane Markings		X
Traffic Signage		X
Electrical Outlets		X
Underground Fuel Tanks		X
Underground Waste Oil Tanks		X
Reefer Plugs		X
Obstruction Lights		X
Fire Protection		X
Safety Equipment		X
Landscaping		X
Trash/Debris Collection		X
Irrigation		X
Pest Control		X
Pavement - Normal Wear & Tear		X
Potholes		X
Drainage (i.e. standing water)		X
Manholes (includes cover & box)		X
Electrical Boxes		X
Stormwater System		X
Drainage Inlets (Includes grate, top slab & box)		X
Lift Stations		X
Backflow Preventers		X
Bollards/Barriers		X
Parking Stops		X
<b>All Improvements (Tenant's sole responsibility)</b>		X
FIT Administration Building		X
Canopies		X
Scales		X
Guard Booths		X
Underground Utilities up to Premises	X	
Underground Utilities on Premises		X
Above ground Utilities up to Premises	X	
Above ground Utilities on Premises		X

Exhibit K  
INSURANCE REQUIREMENTS

Lease: Florida International Terminal, LLC Marine Terminal Lease Amendment  
Agency: Port Everglades Business Development

TYPE OF INSURANCE	ADD L INSD	SUBR WVD	MINIMUM LIABILITY LIMITS		
				Each Occurrence	Aggregate
<b>GENERAL LIABILITY - Broad form</b> <input checked="" type="checkbox"/> Commercial General Liability <input checked="" type="checkbox"/> Premises-Operations <input checked="" type="checkbox"/> XCU Explosion/Collapse/Underground <input checked="" type="checkbox"/> Products/Completed Operations Hazard <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Broad Form Property Damage <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury <b>Per Occurrence or Claims-Made:</b> <input checked="" type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made <b>Gen'l Aggregate Limit Applies per:</b> <input type="checkbox"/> Project <input type="checkbox"/> Policy <input type="checkbox"/> Loc. <input type="checkbox"/> Other _____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Bodily Injury		
			Property Damage		
			Combined Bodily Injury and Property Damage	\$1,000,000	\$5,000,000
			Personal Injury		
			Products & Completed Operations		
<b>AUTO LIABILITY</b> <input checked="" type="checkbox"/> Comprehensive Form <input checked="" type="checkbox"/> Owned <input checked="" type="checkbox"/> Hired <input checked="" type="checkbox"/> Non-owned <input checked="" type="checkbox"/> Any Auto, If applicable <i>Note: May be waived if no driving will be done in performance of services/project.</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Bodily Injury (each person)		
			Bodily Injury (each accident)		
			Property Damage		
			Combined Bodily Injury and Property Damage	\$1,000,000	
<input checked="" type="checkbox"/> <b>EXCESS LIABILITY / UMBRELLA</b> <b>Per Occurrence or Claims-Made:</b> <input type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made <i>Note: May be used to supplement minimum liability coverage requirements.</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		\$5,000,000	
<input checked="" type="checkbox"/> <b>WORKER'S COMPENSATION</b> <i>Note: U.S. Longshoremen &amp; Harbor Workers' Act &amp; Jones Act is required for any activities on or about navigable water.</i>	N/A	<input checked="" type="checkbox"/>	Each Accident	STATUTORY LIMITS	
<input checked="" type="checkbox"/> <b>EMPLOYER'S LIABILITY</b>			Each Accident	\$1,000,000	
<input checked="" type="checkbox"/> <b>POLLUTION / ENVIRONMENTAL LIABILITY</b>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	If claims-made form:	\$1,000,000	
			Extended Reporting Period of:	3 years	
			*Maximum Deductible:	\$100,000	
<input type="checkbox"/> <b>PROFESSIONAL LIABILITY (ERRORS &amp; OMISSIONS)</b> All engineering, surveying and design professionals.	N/A	<input checked="" type="checkbox"/>	If claims-made form:		
			Extended Reporting Period of:		
			*Maximum Deductible:		
<input type="checkbox"/> 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):	Not to exceed 5% of completed value	Completed Value
			*Maximum Deductible:	\$10 k	
<b>Description of Operations:</b> "Broward County" shall be listed as Certificate Holder and endorsed as an additional insured for liability. County shall be provided 30 days written notice of cancellation, 10 days' notice of cancellation for non-payment. The terminal operator's 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. Terminal Operator is responsible for all coverage deductibles unless otherwise specified in the agreement.					

**CERTIFICATE HOLDER:**  
Broward County  
1850 Eller Drive  
Fort Lauderdale, Florida 33316  
Attention: Josh Miller

**Norma**  
 Digitally signed by  
 Norma Dmytriw  
 Date: 2024.02.22  
 13:30:00 -05'00'  
Risk Management Division

