

**MARINE TERMINAL LEASE AND OPERATING AGREEMENT BETWEEN BROWARD COUNTY AND  
EVERGLADES COMPANY TERMINAL, INC.**

This Marine Terminal Lease and Operating Agreement (“Agreement”) is between Broward County, a political subdivision of the State of Florida (“County”), and Everglades Company Terminal, Inc., a Florida corporation (“Lessee” or “ECT”) (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 operation of a modern container terminal yard facility.

C. Mediterranean Shipping Company, S.A. (“MSC”), has operated a 39.18-acre marine terminal in the Southport area of Port Everglades since 2004 pursuant to a Marine Terminal Lease and Operating Agreement approved by the Board on June 22, 2004, as amended by a First Amendment, dated December 11, 2007, a Second Amendment, dated February 9, 2010, a Third Amendment, dated January 10, 2012, and Fourth Amendment, dated August 12, 2014 (as amended, the “Prior Lease Agreement”).

D. Terminal Investment Limited Sarl (“TIL”) is a majority-owned subsidiary of MSC and is the sole owner of Container Marine Terminal, LLC (“CMT”). CMT is the sole owner of Lessee.

E. In 2022, with the upcoming expiration of the Prior Lease Agreement, TIL requested a new marine terminal lease and operating agreement on behalf of MSC.

F. On March 14, 2023, County waived its competitive selection requirements, finding good cause for the Port Director to negotiate a new marine terminal lease and operating agreement with MSC for the same 39.18-acre premises. During preliminary fact-finding discussions held in anticipation of negotiations for the new agreement, MSC indicated its desire for ECT to hold the agreement with County.

G. The Prior Lease Agreement expired on October 31, 2024, but MSC remained on the demised premises with County’s consent while negotiations on a new agreement continued, as further detailed in the Holdover Letter executed by MSC, dated October 30, 2024, creating a tenancy at will, from month-to-month, effective November 1, 2024.

H. Negotiations have concluded, and County and ECT desire to enter into this Agreement upon the terms and conditions set forth herein.

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. **Affiliate** means a Person who (i) is directly or indirectly controlled by, or under common control with, the Lessee; (ii) owns, directly or indirectly, thirty-five percent (35%) or more of the equity interests of Lessee; (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 Lessee.
- 1.2. **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, and ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.
- 1.3. **Board** means the Board of County Commissioners of Broward County, Florida.
- 1.4. **Business Days** means Monday through Friday of each week, exclusive of holidays observed by County, between the hours of 8:00 a.m. and 5:00 p.m. (Eastern).
- 1.5. **Cargo Containers** means all containers, whether empty or full.
- 1.6. **Code** means the Broward County Code of Ordinances.
- 1.7. **County Business Enterprise** or **CBE** means an entity certified as meeting the applicable requirements of Section 1-81 of the Code.
- 1.8. **Lease Year** means the period beginning on the Effective Date and ending on December 31, 2025 ("**Lease Year 1**"), and each twelve (12) month period thereafter until the date this Agreement expires or terminates (e.g., "**Lease Year 2**," "**Lease Year 3**," etc.).
- 1.9. **Person** means any individual, firm, trust, estate, partnership, joint venture, company, corporation, association, or any other legal entity or business enterprise. The reference in this Agreement to any one of the foregoing types of persons is a reference to all other types of persons.
- 1.10. **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 their written designee.
- 1.11. **Port Director** means the Chief Executive & Port Director of the Port Department.
- 1.12. **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.

1.13. **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 39.18 acres of land located at Port Everglades, as such real property is more particularly described in **Exhibit A** attached hereto and made a part hereof, together with all improvements located thereon that are owned by County, including, but not limited to, the Prior Improvements (hereinafter defined) (collectively, the “Premises”). The Parties stipulate that MSC installed and/or constructed various fixtures, structures, facilities, pavements, and/or other permanent improvements on the Premises pursuant to the Prior Lease Agreement, which, at the expiration of the Prior Lease Agreement, became County’s property and were surrendered with and remain on the Premises (“Prior Improvements”). The Prior Improvements include, but are not limited to, the following:

2.1.1. Office building;

2.1.2. RTG pads and reefer racks to accommodate 450 stacked reefers; and

2.1.3. USDA/CBP inspection dock that has the infrastructure to power 116 live reefers.

The Parties stipulate that Lessee has no ownership interest in the Prior Improvements, which are part of the Premises being leased to Lessee pursuant to this Agreement.

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 Law. 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 operation of a modern container and cargo terminal yard facility and all activities reasonably necessary for such use (collectively, “Approved Use”). Lessee shall conduct its operations in an orderly and commercially reasonable manner consistent with customary industry practices for the nature of its operations, subject to compliance with this Agreement, all Applicable Law, and the Tariff.

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 to, 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's ("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 may be 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.

### **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 the Effective Date and shall end on the last day of Lease Year 10 (*i.e.*, December 31, 2034) ("Initial Term"), unless otherwise terminated or extended as provided herein. The Initial Term and any Extension Term(s) exercised pursuant to Section 3.3 are collectively referred to as the "Term."

3.3. Extension Term(s). Lessee may request an extension of this Agreement for up to two (2) additional five (5) year terms (each an "Extension Term") by sending written notice (each an "Extension Notice") to County at least eighteen (18) months prior to the expiration of the then-current Term; provided, however, for an Extension Term to be effective: (a) the Port Director must send written notice of conditional approval of Lessee's request for an Extension Term within thirty (30) days after County's receipt of the applicable Extension Notice (each a "Conditional Approval Notice"); and (b) the Parties must agree on Rent, the Shipmove Rates, the Minimum Annual Guarantee, and the Volume Discount (if any), as such terms are hereinafter defined, and any other applicable rates, for the applicable Extension Term, and memorialize such terms in a written amendment to this Agreement approved by the Parties with County acting through its Board, within six (6) months after the applicable Extension Notice is sent by Lessee to County. Failure on either condition will result in the expiration of this Agreement at the end of the then-current Term. The Port Director is authorized to send Conditional Approval Notice(s), and notice of same to Lessee by electronic mail alone shall be effective and sufficient. All deadlines set forth in this section may be extended by mutual written letter agreement of the Parties, with County acting through its Port Director.

The Parties stipulate that, unless otherwise agreed between the Parties, if an Extension Term is requested by Lessee and memorialized in an amendment between the Parties, the Minimum Annual Guarantee (hereinafter defined) shall be no greater than 107,500 Cargo Containers for any Lease Year until Substantial Completion (hereinafter defined) of the Port Everglades

Deepening and Widening Project, as such project is further detailed in the Project Partnership Agreement between the Department of the Army and County, dated December 14, 2020. For purposes of this paragraph, "Substantial Completion" means the date the Port Everglades Deepening and Widening Project is substantially complete, as determined by the agreement entered between the Department of the Army and the contractor selected for the Port Everglades Deepening and Widening Project (which agreement has yet to be executed). After Substantial Completion is reached, unless otherwise agreed between the Parties, the Minimum Annual Guarantee shall increase by 3,000 Cargo Containers on the first day of each Lease Year after Substantial Completion until the Minimum Annual Guarantee reaches 125,000 Cargo Containers.

#### **ARTICLE 4. RENTALS, FEES, AND SECURITY DEPOSIT**

4.1. Rent. During the Term, Lessee shall pay rent ("Rent") to County for the Premises on a monthly basis. Each monthly installment of Rent shall be in the amounts set forth below, plus applicable sales taxes. Rent shall be due and payable, without invoicing, set-off, or deduction, commencing on the Effective Date and on the first day of each calendar month thereafter, and shall be prorated for any partial month.

<b>Lease Year</b>	<b>Annual Rent</b>	<b>Monthly Installment</b>
Lease Year 1	*	\$197,691
Lease Year 2	\$2,443,452	\$203,621
Lease Year 3	\$2,516,760	\$209,730
Lease Year 4	\$2,592,264	\$216,022
Lease Year 5	\$2,670,024	\$222,502
Lease Year 6	\$2,750,136	\$229,178
Lease Year 7	\$2,832,636	\$236,053
Lease Year 8	\$2,917,608	\$243,134
Lease Year 9	\$3,005,136	\$250,428
Lease Year 10	\$3,095,292	\$257,941

\*Annual Rent for Lease Year 1 is determined by calculating the Monthly Installment due on the Effective Date (prorated if the Effective Date is a date other than the first day of a calendar month) and adding such amount to the remaining Monthly Installments due on the first day of each calendar month thereafter through the last day of Lease Year 1 (*i.e.*, December 31, 2025).

4.2. Utilities.

4.2.1. 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.

4.2.2. High-mast Lighting. Notwithstanding Section 4.2.1, 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, shall be prorated for any partial month, 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. The requirements of this Section 4.2.2 shall survive the expiration or earlier termination of this Agreement.

4.3. Per Container (Shipmove) Rates and Minimum Guaranteed Payment.

4.3.1. Per Container (Shipmove) Rates. Except as provided in Section 4.3.3, commencing on the Effective Date, all Cargo Containers handled by Lessee on the Premises, including, but not limited to, all Cargo Containers designated as Existing Cargo (as hereinafter defined), shall be invoiced by County to Lessee at the following rates (“Shipmove Rates”):

Lease Year	Shipmove Rates
Lease Year 1	\$55.00 per Cargo Container
Lease Year 2	\$56.65 per Cargo Container
Lease Year 3	\$58.35 per Cargo Container
Lease Year 4	\$60.10 per Cargo Container
Lease Year 5	\$61.90 per Cargo Container
Lease Year 6	\$63.76 per Cargo Container
Lease Year 7	\$65.67 per Cargo Container
Lease Year 8	\$67.64 per Cargo Container
Lease Year 9	\$69.67 per Cargo Container
Lease Year 10	\$71.67 per Cargo Container

“Existing Cargo” is a designation used to identify all Cargo Containers handled by Lessee on the Premises for a Current Customer (as hereinafter defined). For purposes of this paragraph, “Current Customer” means a shipping line that was serviced by a marine terminal operator at Port Everglades other than Lessee at any point within the immediately preceding twelve months. Once handled by Lessee, the designation of such Cargo Containers as Existing Cargo will remain unless and until Lessee handles such Cargo Containers on the Premises for twelve consecutive months, at which point such Cargo Containers will no longer be designated as Existing Cargo.

The Shipmove Rates are in lieu of published Tariff rates for dockage (Item 320), wharfage (Items 535 and 537), harbor master (Item 1100), and crane start-up, crane shut-down, crane usage, and crane standby of up to one (1) hour (Item 710). All other applicable Tariff charges, including, but not limited to, crane standby exceeding one (1) hour, and charges for breakbulk wharfage, security services, and line handling services, shall be invoiced by

County at published Tariff rates. Lessee's payment of the Shipmove Rates 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.

4.3.2. Minimum Annual Guarantee. Lessee guarantees to handle at least the following amounts of Cargo Containers on the Premises (the "Minimum Annual Guarantee" or "MAG"):

Lease Year	MAG
Lease Year 1	*
Lease Year 2	87,500 Cargo Containers
Lease Year 3	90,000 Cargo Containers
Lease Year 4	92,500 Cargo Containers
Lease Year 5	95,000 Cargo Containers
Lease Year 6	97,500 Cargo Containers
Lease Year 7	100,000 Cargo Containers
Lease Year 8	102,500 Cargo Containers
Lease Year 9	105,000 Cargo Containers
Lease Year 10	107,500 Cargo Containers

\*The MAG for Lease Year 1 is determined by dividing 85,000 by 365 and then multiplying such resulting number by the number of days in Lease Year 1.

All Cargo Containers, including, but not limited to, all Cargo Containers designated as Existing Cargo, count towards the MAG. Within forty-five (45) days after the end of each Lease Year, County shall invoice Lessee in the amount of the product of the MAG Shortfall (hereinafter defined), if any, multiplied by the Shipmove Rate in effect for the applicable Lease Year, which amount shall be paid by Lessee within ninety (90) days after the applicable Lease Year. The "MAG Shortfall" is the amount by which the number of Cargo Containers handled on the Premises in the applicable Lease Year is less than the applicable MAG.

For each time there is a MAG Shortfall of any amount for two consecutive Lease Years, if any, County, through its Port Director, in addition to requiring payment by Lessee of such MAG Shortfall, shall have the unilateral right (subject to the below process), for the operational convenience of the Port Department, to take back and reduce the acreage included in the Premises. If County, through its Port Director, elects to take back and reduce the acreage included in the Premises, the Port Director shall provide Lessee with written notice of such election within three months after the end of the Lease Year in which there was a second consecutive MAG Shortfall, include a deadline in such written notice for Lessee's removal from such acreage (which deadline shall be no earlier than three months after the date the written notice is sent), and include an updated **Exhibit A** in such written notice (which **Exhibit A** shall automatically be made a part of this Agreement and replace the then current **Exhibit A** without the need for an amendment upon Lessee's removal from such acreage ("Removal Date")). Lessee's removal from such



acreage shall follow the procedures for surrender as set forth in Article 11. All deadlines set forth in this section may be extended by mutual written letter agreement of the Parties, with County acting through its Port Director. Lessee shall bear all costs associated with its removal from such acreage.

The amount of acreage taken back by County, through its Port Director, shall be no greater than the average amount of the MAG Shortfall for the prior two consecutive Lease Years. For example, if Lessee has a MAG Shortfall of 20% in Lease Year 1 and a MAG Shortfall of 10% in Lease Year 2, then County, through its Port Director, may take back up to 15% of the Premises by sending written notice of such election to Lessee within three months after the end of Lease Year 2. The Port Director reserves the right to identify the specific acreage of the Premises taken back from Lessee, but must consider factors, including, but not limited to, Lessee's investment into Leasehold Improvements on the specific acreage proposed to be taken back from Lessee and such decision's effect on Lessee's operations.

For each time there is a reduction in the Premises pursuant this section, if any, effective on the day after the Removal Date, Rent and the MAG (and the MAG used for Volume Discount (hereinafter defined) purposes) for the remainder of the Term shall reduce by the same percentage of acreage taken back from Lessee, but the Shipmove Rates shall remain the same. County shall provide written notice of the updated Rent, MAG, and Volume Discount chart to Lessee within thirty (30) days after the Removal Date, which shall replace the figures provided herein without the need for an amendment. For purposes of clarification, the Volume Discount will still be Ten Dollars (\$10.00) off the applicable Lease Year's Shipmove Rate for each Cargo Container handled on the Premises during such Lease Year exceeding the MAG by up to 17,500 Cargo Containers (except the threshold for Lease Year 1 shall be determined as further described in Section 4.3.3), and Sixteen Dollars (\$16.00) off the applicable Lease Year's Shipmove Rate for each Cargo Container handled on the Premises during such Lease Year exceeding the MAG by at least 17,501 (except the threshold for Lease Year 1 shall be determined as further described in Section 4.3.3), but the MAG used for such calculation shall reduce as detailed above.

**4.3.3. Discounted Shipmove Rate.** Commencing on the Effective Date, except as stated below, Lessee shall receive a discount of Ten Dollars (\$10.00) off the applicable Lease Year's Shipmove Rate for each Cargo Container handled on the Premises during such Lease Year exceeding the MAG by up to 17,500 Cargo Containers (except the threshold for Lease Year 1 shall be determined as further described in this section), and a discount of Sixteen Dollars (\$16.00) off the applicable Lease Year's Shipmove Rate for each Cargo Container handled on the Premises during such Lease Year exceeding the MAG by at least 17,501 (except the threshold for Lease Year 1 shall be determined as further described in this section) (collectively, the "Volume Discount"). The Ten Dollar (\$10.00) and Sixteen Dollar (\$16.00) discounts cannot be combined. For purposes of clarification, the below table further describes the Volume Discount:



<b>Lease Year</b>	<b>\$10.00 discount</b>	<b>\$16.00 discount</b>
Lease Year 1	**	***
Lease Year 2	87,501 – 105,000 Cargo Containers	105,001+ Cargo Containers
Lease Year 3	90,001 – 107,500 Cargo Containers	107,501+ Cargo Containers
Lease Year 4	92,501 – 110,000 Cargo Containers	110,001+ Cargo Containers
Lease Year 5	95,001 – 112,500 Cargo Containers	112,501+ Cargo Containers
Lease Year 6	97,501 – 115,000 Cargo Containers	115,001+ Cargo Containers
Lease Year 7	100,001 – 117,500 Cargo Containers	117,501+ Cargo Containers
Lease Year 8	102,501 – 120,000 Cargo Containers	120,001+ Cargo Containers
Lease Year 9	105,001 – 122,500 Cargo Containers	122,501+ Cargo Containers
Lease Year 10	107,501 – 125,000 Cargo Containers	125,001+ Cargo Containers

\*\* The lower threshold for the \$10.00 Volume Discount for Lease Year 1 is determined by dividing 85,001 by 365 and then multiplying such resulting number by the number of days in Lease Year 1, and then rounding such resulting number up to the nearest whole number, and the upper threshold for the \$10.00 Volume Discount for Lease Year 1 is determined by dividing 102,500 by 365 and then multiplying such resulting number by the number of days in Lease Year 1, and then rounding such resulting number up to the nearest whole number.

\*\*\*The lower threshold for the \$16.00 Volume Discount for Lease Year 1 is one plus the upper threshold for the \$10.00 Volume Discount for Lease Year 1.

Notwithstanding the above, unless otherwise approved in writing by the Port Director, all Cargo Containers designated as Existing Cargo are not eligible for the Volume Discount and will not count for purposes of determining when the Volume Discount applies.

For example, if 107,000 Cargo Containers are handled by Lessee in Lease Year 2, none of which are designated as Existing Cargo, Lessee will receive a discount of \$10.00 off the then-applicable Shipmove Rate (\$56.65 Shipmove Rate - \$10.00 Discount) for each Cargo Container handled between and inclusive of 87,501 Cargo Containers and 105,000 Cargo Containers (\$10.00 discount for each of the 17,500 Cargo Containers) and a discount of \$16.00 off the then-applicable Shipmove Rate (\$56.65 Shipmove Rate - \$16.00 Discount) for each Cargo Container handled above 105,000 Cargo Containers (\$16.00 discount for each of the 2,000 Cargo Containers). In the same example, if 10,000 Cargo Containers are

designated as Existing Cargo, Lessee will receive a discount of \$10.00 off the then-applicable Shipmove Rate for only 9,500 Cargo Containers in Lease Year 2 because, although 107,000 Cargo Containers are handled, 10,000 Cargo Containers are designated as Existing Cargo and are not counted for purposes of the Volume Discount, bringing down the total, for Volume Discount purposes only, down to 97,000 Cargo Containers.

4.3.4. 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, Lessee shall provide an additional report to the Port Department itemizing the total Cargo Containers handled at Port Everglades 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 charges. The current form of the reports, which may be updated by the Port Department upon written notice to Lessee without the need for an amendment, are attached as **Exhibit B-1** and **Exhibit B-2**.

4.3.5. Invoices. The Shipmove Rates for Cargo Containers and all other Tariff charges, plus applicable Florida sales tax, shall be invoiced by County to Lessee on a per-vessel basis, and shall be paid by Lessee to County within thirty (30) days after the date of each invoice. Rent shall be paid without invoice as further stated in Section 4.1.

4.3.6. The requirements of Section 4.3 shall survive the expiration or earlier termination of this Agreement.

4.4. 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 obtain, pay for, and maintain in full force and effect all federal, state, County, and local licenses, local business taxes, approvals, and permits required for Lessee's business operation.

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 any check or draft County receives in payment of any obligation arising under this Agreement is dishonored, Lessee shall pay County a service charge in the amount established by County, as updated 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 observed by County, 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 designated in writing by the Port Director.

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 One Million One Hundred Sixty-eight Thousand Seven Hundred Fifty and 00/100 Dollars (\$1,168,750.00) ("Security Deposit"). The Security Deposit shall be submitted to County simultaneously with the submission to County of this Agreement as executed by Lessee. On the first day of each Lease Year starting in Lease Year 2, Lessee shall increase its Security Deposit to equal twenty-five percent (25%) of the MAG for the then-current Lease Year multiplied by the Shipmove Rate for the then-current Lease Year. 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. In addition, County, upon at least fourteen (14) calendar 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 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 a 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) calendar days prior to any expiration date of the Letter of Credit or Bond, Lessee shall submit evidence in 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, the "Improvements") are permitted on the Premises unless Lessee obtains the prior written approval of the Port Department, which approval shall be expeditiously considered and not unreasonably withheld.

5.2. Required Contract Documents for Improvements. Prior to the commencement 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 any 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 determine 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, including the plans and specifications relating to same, shall conform to all Applicable Law, including all applicable state, federal, County, and local

agency (including all divisions and departments of County) statutes, ordinances, building codes, fire codes, rules, 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 that are nailed, bolted, stapled, or otherwise affixed to the Premises and not readily removable, whether or not such may be deemed a trade fixture (collectively, "Leasehold Improvements"), shall be considered Lessee's property during the Term, shall become County's property upon the expiration or earlier termination of this Agreement, and shall be surrendered with and remain on the Premises upon the expiration or earlier termination of this Agreement without cost to, or reimbursement by, County; provided, however, the Port Department shall have the right, in their sole discretion, to require Lessee, at Lessee's sole cost, to remove any such Leasehold Improvements.

5.6. Maintenance of Improvements. Lessee shall maintain, clean, and repair the Improvements so that they remain in the same condition (*i.e.*, clean, sanitary, and in good working order) as when such Improvements are completed, whether such maintenance, cleaning, or repair be ordinary or extraordinary, structural, or otherwise, excepting only reasonable wear and tear arising from Lessee's use thereof. If Lessee fails in any material respect to: (i) commence curative action to maintain, clean, repair, replace, rebuild, or paint within fifteen (15) 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, cleaning, repair, replacement, rebuilding, or painting of the Improvements required to be maintained, cleaned, 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, clean, repair, replace, rebuild, or paint all or any part of the 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.

5.7. Certified Statements. Within one hundred and twenty (120) days after the completion 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 Law, including all 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.

5.8. Liens. Lessee represents, warrants, and covenants to County that the Premises and all Improvements 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 same to be discharged of record by payment, deposit, bond, or order of a court of competent jurisdiction.

5.9. As-Built Plans and Specifications. Within one hundred twenty (120) days after the completion 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).

5.10. 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.

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

5.12. Failure to Obtain Approval. If any Improvement is made without the approvals required pursuant to this article, then, upon written notice, 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.

5.13. 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 Department and shall be undertaken with the least disturbance possible to the public and the operation of Port Everglades.

5.14. Prevailing Wage Requirement. If construction work in excess of \$250,000 is required of, or undertaken by, Lessee as a result of this Agreement, then Section 26-5 of the Code shall apply to such construction work, the provisions of Section 26-5(a) of the Code shall be deemed incorporated as if expressly set forth herein, and Lessee must submit, as requested by the Port Department, a completed Statement of Compliance in the form available at <https://www.broward.org/Purchasing/Pages/StandardTerms.aspx>.

5.15. Construction and Labor and Material Bonds. Before commencing any Improvements, Lessee shall obtain or require the contractor(s) to maintain, at all times, a valid payment bond and a valid performance bond, 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; provided, however, the Port Department, in its sole discretion, can waive this bond requirement for Improvements valued at \$200,000 or less in accordance with Section 255.05, Florida Statutes, as may be amended. Such bonds must guarantee to County the completion and performance of the work being performed as well as full payment of all suppliers, laborers, and 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:

5.15.1. 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.

5.15.2. 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.



5.16. Ownership Disclosure Form. By January 1 of each year, Lessee must submit, and cause each contractor/subcontractor to 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.

5.17. CBE. In the construction of Improvements on the Premises, Lessee shall comply with all applicable requirements in the Broward County Business Opportunity Act, Section 1-81, et seq., of the Code. Failure by Lessee to carry out any of the requirements of this Section 5.17 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 or Applicable Law, all such remedies being cumulative.

5.17.1. Prior to the commencement of construction of any Improvements, Lessee must submit Letter(s) of Intent (as defined in Section 1-81.1 of the Code) to satisfy the CBE goal established herein. The Letter(s) of Intent must be submitted by the date specified in Section 1-81.5 of the Code.

5.17.2. Lessee must meet or exceed the required CBE goal by utilizing the CBE firms listed in the Letters of Intent (or a CBE firm substituted for a listed firm, if permitted) for Twenty-five percent (25%) of the Contract Value (as defined in Section 1-81.1 of the Code) (the "Commitment"), for the scope of work and the percentage of work amounts identified on each Letter of Intent. Lessee shall enter into formal contracts with the CBE firms listed in the Letters of Intent prior to its commencement of the construction of the Improvements and, upon request, shall provide copies of the contracts to the Broward County Office of Economic and Small Business Development ("OESBD").

5.17.3. Each CBE firm utilized by Lessee to meet the CBE goal must be certified by OESBD. Lessee shall inform County immediately when a CBE firm is not able to perform or if Lessee believes the CBE firm should be replaced for any other reason, so that OESBD may review and verify the good faith efforts of Lessee to substitute the CBE firm with another CBE firm, as applicable. Whenever a CBE firm is terminated for any reason, Lessee shall provide written notice to OESBD and, upon written approval of the Director of OESBD, shall substitute another CBE firm in order to meet the CBE goal, unless otherwise provided in this Agreement or agreed in writing by the Parties. Such substitution shall not be required if the termination results from modification of the scope of services and no CBE firm is available to perform the modified scope of services; in which event, Lessee shall notify County, and OESBD may adjust the CBE goal by written notice to Lessee. Lessee shall not terminate a CBE firm for convenience without County's prior written consent, which consent shall not be unreasonably withheld.

5.17.4. The Parties stipulate that if Lessee fails to meet the Commitment, the damages to County arising from such failure are not readily ascertainable at the time of contracting. If Lessee fails to meet the Commitment and County determines, in the sole discretion of the OESBD Program Director, that Lessee failed to make Good Faith Efforts (as defined in

Section 1-81.1 of the Code) to meet the Commitment, Lessee shall pay County liquidated damages in an amount equal to fifty percent (50%) of the actual dollar amount by which Lessee failed to achieve the Commitment, up to a maximum amount of ten percent (10%) of the total Contract Value (as defined in Section 1-81.1 of the Code). An example of this calculation is stated in Section 1-81.7 of the Code. As elected by County, such liquidated damages amount shall be either credited against any amounts due from County, or must be paid to County within thirty (30) days after written demand. These liquidated damages shall be County's sole contractual remedy for Lessee's breach of the Commitment, but shall not affect the availability of administrative remedies under Section 1-81 of the Code. Lessee acknowledges and agrees that the liquidated damages provided in this section are proportionate to an amount that might reasonably be expected to flow from a breach of the Commitment and are not a penalty. Any failure to meet the Commitment attributable solely to force majeure, changes to the scope of work by County, or inability to substitute a CBE Subcontractor where the OESBD Program Director has determined that such inability is due to no fault of Lessee, shall not be deemed a failure by Lessee to meet the Commitment.

5.17.5. Lessee acknowledges that the Board, acting through OESBD, may make minor administrative modifications to Section 1-81 of the Code, which shall become applicable to this Agreement if the administrative modifications are not unreasonable. Written notice of any such modification shall be provided to Lessee and shall include a deadline for Lessee to notify County in writing if Lessee concludes that the modification exceeds the authority under this section. Failure of Lessee to timely notify County of its conclusion that the modification exceeds such authority shall be deemed acceptance of the modification by Lessee.

5.17.6. County may modify the required participation of CBE firms in connection with any amendment, extension, modification, or other change to this Agreement that, by itself or aggregated with previous amendments, extensions, modifications, and changes, increases the initial Contract Value by ten percent (10%) or more. Lessee shall make a good faith effort to include CBE firms in work resulting from any such amendment, extension, modification, or other change, and shall report such efforts, along with evidence thereof, to OESBD.

5.17.7. Lessee shall provide written monthly reports to OESBD attesting to Lessee's compliance with the Commitment. In addition, Lessee shall allow County to engage in onsite reviews to monitor Lessee's progress in achieving and maintaining the Commitment. OESBD shall perform such review and monitoring.

5.17.8. Lessee shall demonstrate timely payments of sums due to all contractors and suppliers of all construction and improvements provided in the Agreement. The presence of a "pay when paid" provision in a Lessee's contract with a CBE firm shall not preclude County or its representatives from inquiring into claims of nonpayment.

5.18. County Payment Credits for Certain Improvements.

5.18.1. Lessee Responsible for Costs and Expenses - Generally. Except as otherwise provided herein, Lessee shall be responsible for all costs and expenses relating to: (i) Lessee's improvements to the Premises, including, but not limited to, the design, permitting, and construction thereof; and (ii) all other improvements necessary for Lessee's use of the Premises, including, but not limited to, improvements mandated by any governmental authority having jurisdiction over same.

5.18.2. County Payment Credits. Notwithstanding Section 5.18.1, and subject to the requirements provided in this section, the Port Department shall provide Lessee with payment credit(s) in a total amount not to exceed Three Million Dollars (\$3,000,000) to reimburse Lessee for Capital Expenditures (hereinafter defined) associated with the following Leasehold Improvements on the Premises (collectively, the "Eligible Improvements"):

1. Resurface/pavement overlay and restriping of Premises; and
2. Design/installation of container/equipment wash rack.

The list of Eligible Improvements can be modified in writing by the Parties via a countersigned letter, with County acting through its Port Director.

To be eligible for payment credit(s), the applicable Eligible Improvements must be identified by Lessee during the pre-approval process required by Article 5 as Eligible Improvements for which Lessee 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 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 Department, acting in its reasonable discretion, during the pre-approval process required by Article 5; (iii) must be incurred after the Effective Date of this Agreement, but before the end of Lease Year 4; 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 Department, in its sole discretion, upon Lessee's separate written request;

4. Costs incurred by any Affiliate of Lessee shall not qualify as Capital Expenditures unless specifically approved in advance and in writing by the Port Department, in its sole discretion, upon Lessee's separate written request. Such costs must also meet all requirements of this section to be considered for approval by the Port Department as Capital Expenditures;
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 Premises, shall not qualify as Capital Expenditures;
6. Costs of interior decorations (other than standard the Port 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 Department, upon the Lessee's separate written request;
7. Costs of financing, interest expenses, administration, supervisory, overhead, and internal costs of Lessee, or of any Affiliates of Lessee, 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 Lessee; and
9. Costs incurred by a sublessee of Lessee for Eligible Improvements that are made in accordance with all requirements of this Agreement may be submitted by Lessee in writing to the Port Department for review and possible written approval to qualify as Capital Expenditures. Any costs incurred by a sublessee before County Port Department approval shall not qualify as Capital Expenditures.

The Infrastructure Investment and Jobs Act, Pub. L. 117-58, authorized and appropriated \$450 million to be awarded by the United States Department of Transportation, Maritime Administration ("MARAD") for projects for coastal seaports for Fiscal Year 2024. MARAD issued a Notice of Funding Opportunity ("NOFO") for the Port Infrastructure Development Program Grant ("PIDP Grant"). County and MSC jointly applied for a PIDP Grant to improve the Premises and entered into a Memorandum of Understanding, dated May 8, 2024. Any improvements to the Premises for which Lessee, MSC, or any other Affiliate receives grant funds pursuant to the PIDP Grant, or any other grant funds, are not eligible for Payment Credit(s), including, but not limited to, the following:

1. Concrete RTG pads; and
2. Civil work for charging stations.

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

5.18.4. Application of Payment Credit(s). All approved payment credit(s) shall be applied by the Port Department, in its sole discretion, to Lessee's invoices, either as a lump sum credit or in equal amounts over a period of no more than the twelve (12) months immediately following the Lease Year 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 Lease Year shall be applied by the Port Department, in its sole discretion, to Lessee's invoices, either as a lump sum credit or in equal amounts over a period of no more than the twenty-four (24) months immediately following the Lease Year in which the Capital Expenditures were incurred.

5.18.5. Payment Credit(s) and MAG. Notwithstanding the foregoing, Lessee is not entitled to receive any payment credit(s) during any Lease Year in which Lessee failed to meet or exceed its MAG during the immediately prior Lease Year; provided, however, any payment credit(s) may be carried forward to a future Lease Year in which Lessee meets or exceeds its MAG during the immediately prior Lease Year, but no later than the end of Lease Year 5 (except this date can be extended by the Port Department to the end of Lease Year 6, if the payment credit(s) exceed a total of One Million and 00/00 Dollars (\$1,000,000.00)). All of Lessee'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 13, 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 13.

5.18.6. Capital Expenditure Report. Upon request by the Port Department, Lessee, at its sole cost and expense, shall provide the Port 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. Lessee shall document, to the satisfaction of the CPA and the Port 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. Lessee shall provide, upon request,

such invoices and other back-up documentation as may be required by the Port Department or the CPA.

## ARTICLE 6. MAINTENANCE OF PREMISES

Lessee shall maintain, clean, and repair the Premises (which shall include, without limitation, all improvements leased by County, including, but not limited to, the Prior Improvements) 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 C**.

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

If Lessee fails in any material respect to: (i) commence curative action to maintain, clean, repair, replace, rebuild, or paint within fifteen (15) 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, cleaning, repair, replacement, rebuilding, or painting of the Premises (or improvements) required to be maintained, cleaned, 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, clean, repair, replace, rebuild, or paint all or any part of the Premises (which shall include, without limitation, all improvements leased by County, including, but not limited to, the Prior 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 C**, and notwithstanding the order of precedence stated in this section, for maintenance and/or 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.

## **ARTICLE 7. DEFAULT BY LESSEE; EARLY TERMINATION 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 thirty (30) days following the date written notice to cure is sent by the Port Department to Lessee; or (b) in the case of any obligation that cannot be cured with due diligence and good faith within thirty (30) 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 thirty (30) days after such notice is sent by the Port Department, or 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 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 and such suspension or revocation continues in effect for a period of thirty (30) consecutive days;

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 thirty (30) 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 County or 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 Law, including, but not limited to, the United States Bankruptcy Code, Lessee or any trustee for it shall, within thirty (30) days, upon request by County to the applicable court of 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 Law, 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, the Shipmove Rate for Cargo Containers 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 defaults for the same reason two (2) or more times in two (2) consecutive months, and regardless of whether Lessee has cured each individual default, 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 to the Premises (which shall include, without limitation, all improvements leased by County, including, but not limited to, the Prior Improvements), any Improvements, or any Port property 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 reasonably 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. If such repairs are performed by County, any applicable insurance proceeds received by Lessee shall be released to County to reimburse County for such repairs.

8.2. Damage by Casualty. If the Premises (which shall include, without limitation, all improvements leased by County, including, but not limited to, the Prior Improvements, but specifically excluding the Improvements) are damaged by casualty not caused by an act attributable to Lessee or County, and thereby become untenable, the Port Department may elect to commence the required repairs within thirty (30) days from the date of the casualty. If the Port Department does not elect to commence the required repairs, Lessee may elect to commence the required repairs and may request that any applicable insurance proceeds received by County be released to Lessee to reimburse Lessee for such repairs. If the required repairs to the Premises are not commenced by either County or Lessee within ninety (90) days from the date of the casualty, and the Premises remains untenable, either County, by its Board of County Commissioners, or Lessee, may elect to terminate this Agreement. In the event of such termination, all rentals and all other monetary payments required to be paid herein by Lessee shall be charged by County only to the date the demised Premises became untenable due to the casualty.

If the Improvements are damaged by casualty not caused by an act attributable to Lessee or County, and thereby Lessee's operations are materially and substantially impaired, Lessee may elect to commence the required repairs within thirty (30) days from the date of the casualty. If Lessee does not elect to commence the required repairs, the Port Department may elect to commence the required repairs and any applicable insurance proceeds received by Lessee shall be released to County to reimburse County for such repairs. If the required repairs to the Improvements are not commenced by either County or Lessee within ninety (90) days from the date of the casualty, and Lessee's operations remain materially and substantially impaired, either County, by its Board of County Commissioners, or Lessee may elect to terminate this Agreement. In the event of such termination, all rentals and all other monetary payments required to be paid herein by Lessee shall be charged by County only to the date the Improvements became inoperable due to the casualty. Notwithstanding the above, even if Lessee does not elect to

commence the required repairs, Lessee shall remove any damaged Improvements and clear all debris from the damaged Improvements.

8.3. Fire Prevention. Lessee agrees to use every reasonable precaution against fire and agrees to provide and maintain approved, labeled fire extinguishers, emergency lighting equipment, fire safety equipment, fire sprinklers, and exit signs as required or recommended by the Occupational Safety and Health Administration, the local fire department, or any similar body. Lessee must comply with the recommendations of the National Fire Protection Association.

## 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 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. Throughout the Term, 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 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.

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 remain in full force and effect without any lapse in coverage throughout the Term and until all performance required of 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).

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 all such broader coverages and higher limits. All required insurance coverages shall provide primary coverage and 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. Any deductible or self-insured retention may be satisfied by either the named insured or County, if so elected by County, and Lessee shall 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 insurer(s) may acquire against County, and shall obtain same in an endorsement of Lessee's insurance policies.

9.10. 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 the requirements of this article and that "Broward County" is named as an additional insured under the contractors'/subcontractors' applicable insurance policies.

9.11. 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 Lessee shall reimburse County for such payments within ten (10) days of receipt of invoice from County. 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.

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 shall not be unreasonably withheld. The Port Department may condition such approval 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 may be required to execute a written assumption of lease, agreeing to assume and abide by all terms and provisions of this Agreement, which assumption of lease must be acceptable to the Port Department. In no case will an Assignment be granted if a default by Lessee shall have occurred and remain uncured. The Port Department reserves the right to condition its approval of any Assignment upon further due diligence and an additional fee paid to County to reasonably compensate it for the performance of any such due diligence.

10.2. No Release. In the event of any Assignment, unless otherwise agreed to in writing by the Port Department, Lessee shall not be released of its obligations and liabilities hereunder. The Port Department, as a condition of approving an Assignment, may increase the Rent and 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. Change in Lessee's Status. For purposes of this article, in addition to the actions identified in Section 10.1, an "Assignment" shall also 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.

10.4. 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 under this Agreement or that occupies the Premises, and the Port Department shall apply the net amount collected to the Rent 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 that claims a right under this Agreement or that occupies the Premises.

10.5. 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 Applicable Law. 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.

10.6. 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 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: (i) all flooring must be cleaned as reasonably required by the Port Department; (ii) all doors and walls must be patched and painted 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 from such removal 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, 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, 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, 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, and/or conditions related to the Premises and the improvements thereon not caused by Lessee or Lessee's officers, agents, employees, partners, contractors, sublessees, guests, or invitees; provided, however, the Parties agree, for absolute clarity, that Lessee shall remain liable for any preexisting environmental impairments, liabilities, and/or conditions related to the Premises and the improvements thereon caused by MSC or MSC'S officers, agents, employees, partners, contractors, 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, sublessees, guests, or invitees; provided, however, the Parties agree, for absolute clarity, that Lessee shall remain liable for any migration of Pollutants and/or rise in the level of any Pollutants related to the Premises caused by MSC or MSC'S officers, agents, employees, partners, contractors, sublessees, guests, or invitees. Nothing herein shall terminate or otherwise modify the provisions of Article 27 (Environmental Impairment; Containment and Removal) of the Prior Lease Agreement, which survived the expiration of the Prior Lease Agreement.

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, 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 over 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 containment, removal, and/or abatement of any Pollutants in Port Everglades that were caused by Lessee or Lessee's officers, agents, employees, partners, contractors, sublessees, guests, or invitees, the costs of such containment, removal, and/or abatement 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 termination, expiration, or

Assignment of this Agreement or at any time during the Term, County shall have the right to have a "Phase I" environmental site assessment of the Premises conducted at Lessee's expense, and if such "Phase I" environmental site assessment 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 site assessment and 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 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 Law, provide the relevant regulatory authorities with notice of any and all spills, leaks, or discharges of Pollutants on or under the Premises or within Port Everglades, have an updated contingency plan in effect for such spills, leaks, or discharges, and promptly implement the plan.

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; (ii) use the Premises for access to other parts of Port Everglades otherwise not conveniently accessible; or (iii) perform work related to programming studies or design, including geotechnical work, for County projects; 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 so 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, 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. Representations and Warranties.

13.2.1. Representation of Authority. Lessee represents and warrants that this Agreement constitutes the legal, valid, binding, and enforceable obligation of Lessee, and that neither the execution nor performance of this Agreement constitutes a breach of any agreement that Lessee has with any third party or violates Applicable Law. Lessee further represents and warrants that execution of this Agreement is within Lessee's legal powers, and each individual executing this Agreement on behalf of Lessee is duly authorized by all necessary and appropriate action to do so on behalf of Lessee and does so with full legal authority.

13.2.2. Contingency Fee. Lessee represents and warrants that it has not employed or retained any person or entity, other than a bona fide employee working solely for Lessee, to solicit or secure this Agreement, and 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.

13.2.3. 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 statute. 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.

13.2.4. Discriminatory Vendor and Scrutinized Companies Lists; Countries of Concern. Lessee 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. Lessee 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. Lessee represents that it is, and for the duration of the Term will remain, in compliance with Section 286.101, Florida Statutes.

13.2.5. Claims Against Lessee. Lessee represents and warrants that there is no action or proceeding, at law or in equity, before any court, mediator, arbitrator, governmental or other board or official, pending or, to the knowledge of Lessee, threatened against or affecting Lessee, the outcome of which may (a) affect the validity or enforceability of this Agreement, (b) materially and adversely affect the authority or ability of Lessee to perform its obligations under this Agreement, or (c) have a material and adverse effect on the consolidated financial condition or results of operations of Lessee or on the ability of Lessee to conduct its business as presently conducted or as proposed or contemplated to be conducted.

13.2.6. Verification of Employment Eligibility. Lessee represents that Lessee and each sublessee have registered with and use the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Agreement will not violate that statute. If Lessee violates this section, County may immediately terminate this Agreement for cause and Lessee shall be liable for all costs incurred by County due to the termination.

13.2.7. Prohibited Telecommunications. Lessee represents and certifies that Lessee and all sublessees do not use, and for the Term will not provide or 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 C.F.R. §§ 52.204-24 through 52.204-26.

13.2.8. Entities of Foreign Concern. The provisions of this section apply only if this Agreement provides access to an individual’s personal identifying information. By execution of this Agreement, the undersigned authorized representative of Lessee hereby attests under penalty of perjury as follows: Lessee is not owned by the government of a foreign country of concern, is not organized under the laws of nor has its principal place of business in a foreign country of concern, and the government of a foreign country of concern does not have a controlling interest in Lessee; and the undersigned authorized representative of Lessee declares that they have read the foregoing statement and that the facts stated in it are true. Terms used in this section that are not otherwise defined in this Agreement shall have the meanings ascribed to such terms in Section 287.138, Florida Statutes.



13.3. Audit Rights and Retention of Records. County shall have the right to audit the books, records, and accounts of Lessee and all contractors/sublessees that are related to this Agreement. Lessee 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, Lessee and all contractors/sublessees shall make same available in written form at no cost to County. Lessee shall provide County with reasonable access to Lessee's facilities, and County shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement.

Lessee 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 section shall survive any dispute or litigation between the Parties, and Lessee expressly acknowledges and agrees to be bound by this section 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). Lessee hereby grants County the right to conduct such audit or review at Lessee's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance written notice. Lessee 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 reveals underpayments to County of any nature by Lessee in excess of five percent (5%) of the applicable contract billings reviewed by County, Lessee shall make adjustments for the underpayments, and 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 Lessee.

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

13.4. 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).

13.5. 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.).

13.6. 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.

13.7. 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.

13.8. 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.

13.9. 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, 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.

13.10. Fines. If as a result of an intentional or negligent act or omission of Lessee or Lessee's officers, agents, employees, partners, contractors, 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, 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.

13.11. 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 contractor(s) in any position requiring access to the Port. Lessee shall include this provision in its contracts with its contractors, agents, employees, and business invitees.

13.12. 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.

13.13. Parking. Lessee's use of parking spaces in Port Everglades shall be subject to and in accordance with County's vehicle parking regulations as 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.

13.14. 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, and 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.

13.15. 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.

13.16. 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 documents(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.

13.17. 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.

13.18. 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.

13.19. Anti-Human Trafficking. By execution of this Agreement by the undersigned authorized representative of Lessee, Lessee hereby attests under penalty of perjury that Lessee does not use coercion for labor or services, as such terms are defined in Section 787.06, Florida Statutes; under

penalties of perjury, the undersigned authorized representative of Lessee declares that they have read the foregoing statement and that the facts stated in it are true.

13.20. Iron and Steel Products. If this Agreement is for a “public works project” as defined in Section 255.0993, Florida Statutes, then any iron or steel product permanently incorporated in the project must be produced in the United States, unless specifically exempted in writing by the Port Department in accordance with Section 255.0993, Florida Statutes.

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 EITHER PARTY 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 protest 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 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. Relationship of the Parties. Neither Party nor its agents shall act as officers, employees, or agents of the other Party. Neither Party shall have the right to bind the other Party to any obligation not expressly undertaken by said other Party under this Agreement.

13.28. Third-Party Beneficiaries. Neither Lessee nor County intends to primarily or directly 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:

<b>Exhibit A</b>	<b>Premises</b>
<b>Exhibit B-1</b>	<b>Form Per Vessel Report</b>
<b>Exhibit B-2</b>	<b>Form Monthly Report</b>
<b>Exhibit C</b>	<b>Maintenance</b>
<b>Exhibit D</b>	<b>Minimum Insurance Coverage</b>

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 titles and 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” 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 subsections thereof, 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. Any reference to approval by County shall require approval in writing, 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 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. Nonliability 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 of 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 and Port Director  
Port Everglades Department  
1850 Eller Drive, Suite 604  
Fort Lauderdale, Florida 33316  
Email address: [jmmorris@broward.org](mailto:jmmorris@broward.org)



FOR LESSEE:

Attn: Rick Blackmore  
Everglades Company Terminal, Inc.  
4200 McIntosh Road  
Hollywood, Florida 33316  
Email address: [rblackmore@petpev.com](mailto:rblackmore@petpev.com)

13.43. Compliance with Laws. Lessee and Lessee's officers, agents, employees, partners, contractors, sublessees, guests, and invitees shall comply with all Applicable Law in performing its duties, responsibilities, and obligations pursuant to this Agreement, including any governing the operation, maintenance, and use of the Port.

13.44. 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, land use, and environmental codes, administrative codes, ordinances, rules, and regulations, federal laws and regulations, state laws and regulations, grant agreements, and delegated authorities. In addition, nothing in this Agreement shall be considered zoning by contract.

13.45. 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.

13.46. 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.

13.47. 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.

13.48. Port Department Authority. Unless expressly stated otherwise in this Agreement or otherwise set forth in an applicable provision of the Broward County Procurement Code, the

Code, or Broward County Administrative Code, the Port Everglades may act on behalf of County under this Agreement.

13.49. 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.

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

13.51. 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.

13.52. 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.

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

13.54. Public Records. County is a local government entity subject to Florida public records laws, including Chapter 119, Florida Statutes. Lessee shall comply with all applicable provisions of the Florida public records laws, and any action taken by County in compliance with, or in a good faith attempt to comply with, the requirements of Chapter 119, Florida Statutes, shall not constitute a breach of this Agreement.

13.55. Preferential Berthing and Cranes. County shall, upon receipt of timely and proper Berth Application as further described in Item 205 of the Tariff, provide Lessee with access to and use of Berth 31 on preferential basis seven days per week; provided, however, if Berth 31 is not available, Berth 30A shall be provided, if available. County shall, upon receipt of a timely and proper order for container gantry crane(s) as further described in Item 705 of the Tariff, provide Lessee with access to and use of two (2) container gantry cranes on a preferential basis seven (7) days per week, which will increase to three (3) container gantry cranes upon the earlier of (a) County installing an additional crane in one of Berth 31, 32, or 33 or (b) the completion of the Samsung retrofit project as further detailed in the Contract between Broward County and ZPMC NA East Coast for Modification of Existing Low-Profile Cranes, dated November 14, 2023. Lessee shall not assert any claim(s) or demand(s) against County due to County's inability to furnish berth(s) and/or crane(s) in accordance with this section, or if a crane breaks or otherwise goes out of service during Lessee's use of such crane(s).

**[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 Everglades Company Terminal, Inc., signing by its duly authorized representative.

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) 523-3404

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

Digitally signed by CARLOS  
A. RODRIGUEZ-CABARROCAS  
Date: 2025.04.17 14:24:39  
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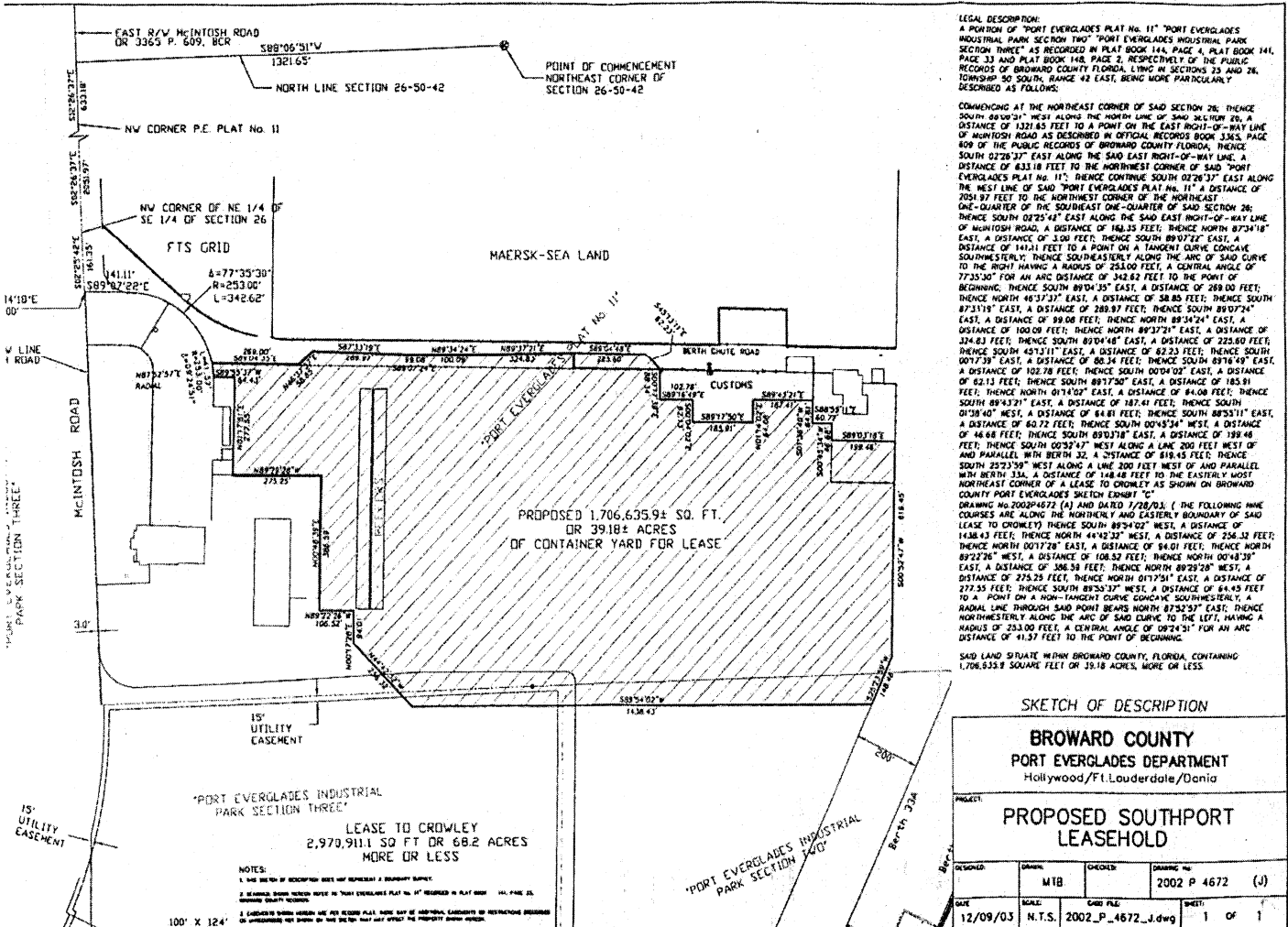
**MARINE TERMINAL LEASE AND OPERATING AGREEMENT BETWEEN BROWARD COUNTY AND  
EVERGLADES COMPANY TERMINAL, INC.**

**LESSEE**

Everglades Company Terminal, Inc.

By:  **tom.vaneynde**  
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Date: 2025.04.17 18:32:12 +02'00'  
\_\_\_\_\_  
Tom Van Eynde, President

\_\_\_\_\_  
Date



**EXHIBIT "B-1"**  
**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:**

**VESSEL VISIT SERVICE CODE:**

**ARV Date:**

**DEP Date:**

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

<b>CONTAINERS</b>	<b>CONTAINER CARGO WHARFAGE</b>			
	<b>Discharged/Inbound</b>		<b>Loaded/Outbound</b>	
20' Containers - Empty				
20' Containers - Full				
20' Containers - Transshipment Full				
40' Container - 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				
<b>TOTAL CONTAINERS</b>		<b>0</b>		<b>0</b>
TOT CONTAINERIZED CARGO KILO/LBS				
TOT RORO CONTAINERIZED CARGO KILOS/LBS				
TOT TRANSSHIPMENT CONT CARGO KILO/LBS				

<b>BREAK BULK/BULK</b>	<b>NON-CONTAINERIZED CARGO</b>			
	<b>Total Quantity</b>	<b>Tot Wt</b>	<b>Total Quantity</b>	<b>Tot Wt</b>
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				
<b>TOTAL BREAK BULK WEIGHT</b>				
<b>TOTAL BILL OF LADINGS</b>				
<b>TOTAL EMPTIES/CHASSIS</b>				
<b>TOTAL MANIFEST WEIGHT</b>				

**Prepared By:**

**Contact No:**

**Email address:**

**Date:**

Above Certified in Accordance with Ship's Manifest (Signature of Agent)

**EXHIBIT "B-2"**

**BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS**  
**Port Everglades Department**

Monthly Container Report - Mediterranean Shipping      Month\_\_\_\_, Year\_\_\_\_      Month      Year

Leased Acres: \_\_\_\_\_

[illegible]**Total Containers (Discharged/Loaded From/To A Vessel)**

**NOTE: Copies of vessel containers loaded and/or discharged are to accompany this report.**

Above Certified To Be True And Accurate  
(Signature of MSC Representative)

(Email Address and Telephone Number)



**MAINTENANCE RESPONSIBILITIES**

	County	Lessee
<b>Exterior Site Improvements:</b>		
Fencing		X
Gates		X
Lighting (fixtures, junction box & poles)		X
Highmast Lights - once all converted to LED		X
Obstruction Lights		X
Lane Markings		X
Traffic Signage		X
Electrical Outlets		X
Underground Fuel Tanks		X
Underground Waste Oil Tanks		X
Reefer Plugs		X
Fire Protection		X
Safety Equipment		X
Landscaping		X
Trash/Debris Collection		X
Irrigation		X
Pest Control		X
Pavement - Normal Wear & Tear		X
Potholes - Subsidence		X
Drainage (i.e. standing water)		X
Manholes (includes cover & box) - Wear/Tear		X
Electrical Boxes		X
Stormwater System (includes jetting per SWPPP)	X	
Drainage Inlets (Includes grate, top slab, & box)		X
Lift Stations	N/A	N/A
Backflow Preventers		X
Bollards on leased property		X
<b>Administration Building</b>		
(Tenant's sole responsibility)		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

*Note: County is responsible for the high mast lighting wiring up to the junction box located at the bottom of high mast pole.*

**Exhibit D**  
**INSURANCE REQUIREMENTS**

TENANT: Everglades Company Terminal, Inc.  
AGENCY: Port Everglades Business Development

TYPE OF INSURANCE	INSD	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	<b>\$1,000,000</b>	<b>\$2,000,000</b>
			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>			Bodily Injury (each person)		
			Bodily Injury (each accident)		
			Property Damage		
			Combined Bodily Injury and Property Damage	<b>\$1,000,000</b>	
<input 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"/> <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	<b>STATUTORY LIMITS</b>	
<input checked="" type="checkbox"/> <b>EMPLOYER'S LIABILITY</b>			Each Accident	<b>\$500,000</b>	
<input type="checkbox"/> <b>PROFESSIONAL LIABILITY (ERRORS &amp; OMISSIONS)</b> All engineering, surveying and design professionals.	N/A		Each Claim:		
			*Maximum Deductible:		
<input checked="" type="checkbox"/> <b>POLLUTION/ENVIRONMENTAL LIABILITY</b>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Each Claim:	<b>\$1,000,000</b>	<b>\$1,000,000</b>
			*Maximum Deductible:		
<input checked="" type="checkbox"/> <b>PROPERTY DAMAGE</b> is required on a special peri. Broward County must be listed as an Additional insured.	<input checked="" type="checkbox"/>		*Maximum Deductible (Wind and/or Flood):	Insured to value	
			*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. Tenants insurance shall provide primary coverage and shall not require contribution from the County, self-insurance or otherwise. Any self-insured retention (SIR) higher than the amount permitted in this Agreement must be declared to and approved by County and may require proof of financial ability to meet losses. Tenant is responsible for all coverage deductibles unless otherwise specified in the agreement. For Claims-Made policies insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work.

**CERTIFICATE HOLDER:**

Broward County  
1850 Eller Drive  
Ft. Lauderdale, FL 33316  
  
Attention: Josh Miller

Digitally signed by  
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Date: 2025.01.02  
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