

# Special Board of Directors Meeting

February 14, 2022 09:00 AM



## Agenda Topic

## Presenter

### Agenda

- |      |                                                                                                                     |                               |
|------|---------------------------------------------------------------------------------------------------------------------|-------------------------------|
| I.   | Pledge of Allegiance/Moment of Silence                                                                              | Jamie Shelton                 |
| II.  | <a href="#">Approval of Minutes - Board of Directors Meeting - December 6, 2021</a>                                 | Vice Chair Palmer<br>Clarkson |
| III. | Public Comments                                                                                                     |                               |
| IV.  | New Business                                                                                                        |                               |
|      | <a href="#">AC2022-01-01 - Bartram Island DMMA Cell "C" Services During Construction - Taylor Engineering, Inc.</a> | James Bennett                 |
|      | <a href="#">BD2022-02-01 - Sovereignty Submerged Land Lease Renewal BIMT Main Wharf (SLL NO: 160223992)</a>         | Fred Wong                     |
|      | <a href="#">BD2018-04-01 - Carnival Corporation Berthing &amp; Terminal Use Agreement - Reinstatement</a>           | Nick Primrose                 |
|      | <a href="#">BD2022-02-02 - Termination of Hedge Transaction Associated with Special Purpose Bonds Series 2007</a>   | Beth McCague                  |
|      | <a href="#">BD2022-02-03 - Ceres/TraPac Lease Agreement</a>                                                         | Nick Primrose                 |
| V.   | CEO Update                                                                                                          | Eric Green                    |
| VI.  | Reports                                                                                                             |                               |
|      | <a href="#">R2022-02-01 Engineering and Construction Update</a>                                                     | James Bennett                 |
|      | <a href="#">R2022-02-02 Financial Highlights by Beth McCague</a>                                                    | Info Only                     |
|      | <a href="#">R2022-02-03 Financials/Vital Statistics by Mike McClung</a>                                             | Info Only                     |
|      | <a href="#">R2022-02-04 Commercial Highlights by Robert Peek</a>                                                    | Info Only                     |
| VII. | Other Business                                                                                                      | Vice Chair Palmer<br>Clarkson |

Approval of Travel - Vice Chairman Clarkson recommends approval of travel by one or more Board Members of the Authority for business solicitation purposes or to attend any necessary conferences during the months of March/April 2022.

VIII. Miscellaneous

A. [Award Committee Meeting Minutes - January 20, 2022](#)

B. Emergency Purchases

C. Unbudgeted Transactions - None

IX. Adjourn

Vice Chair Palmer  
Clarkson

The next Board of Directors Meeting will be held on  
Monday, March 28, 2022.



## Minutes for Board of Directors Meeting

12/06/2021 | 09:10 AM - 10:25 AM - Eastern Time (US and Canada)

### Board Members Attending:

Ms. Wendy Hamilton, Chairwoman  
Mr. Palmer Clarkson, Vice Chairman  
Mr. Daniel Bean, Treasurer  
Mr. Ed Fleming, Member  
Mr. Jamie Shelton, Member  
Mr. Ceree Harden, Member

Absent: Mr. Brad Talbert, Secretary

### Other Attendees:

Mr. Eric Green, Chief Executive Officer  
Mr. Fred Wong, Chief Operating Officer  
Ms. Beth McCague, Chief Financial Officer  
Ms. Linda Williams, Chief, Adm. & Corporate Performance  
Mr. Nick Primrose, Chief, Regulatory Compliance  
Mr. James Bennett, Sr. Director, Engineering & Construction  
Mr. Robert Peek, Director & GM, Business Development  
Mr. Mike McClung, Director of Finance  
Mr. Reese Wilson, Office of General Counsel  
Ms. Rebecca Dicks, Board Liaison

## Agenda

A meeting of the Jacksonville Port Authority Board of Directors was held on Monday, December 6, 2021 at the Port Central Office Building, 2831 Talleyrand Avenue, Jacksonville, Florida. Chairwoman Wendy Hamilton called the meeting to order at 9:10 a.m. and welcomed all attendees.

Chairwoman Hamilton introduced and welcomed new Board Member Ceree Harden and stated for the record that Board Member Brad Talbert was unable to attend this meeting.

### Pledge of Allegiance/Moment of Silence

Board Member Ed Fleming led the audience in the Pledge of Allegiance and a moment of silence.

## **Approval of Minutes - Board of Directors Meeting - October 25, 2021**

Chairwoman Hamilton called for approval of the October 25, 2021 Board of Directors Meeting Minutes.

After a motion by Mr. Bean and a second by Mr. Clarkson, the Board unanimously approved the minutes as submitted.

## **Public Comments**

Chairwoman Hamilton called for comments from the public. There being none, she moved on to Presentations.

## **Presentations**

Chairwoman Hamilton recognized immediate past JAXPORT Board Chairman Jamie Shelton and thanked him for his leadership and 18 months of service as Chairman.

## **New Business**

### **BD2021-12-01 City of Jacksonville Big Fishweir Creek Dredging Project Extend Temporary Work Area Agreement**

Mr. Fred Wong presented this submission for Board approval of the First Amendment to the Temporary Work Area Easement to the City of Jacksonville. This amendment will extend the date of the Temporary Work Area Easement to December 31, 2023 which will extend the contractor's access the DMMA at Bartram Island and to place the dredged material in Cell B-1 until the work is completed.

After a motion by Mr. Bean and a second by Mr. Clarkson, the Board voted to approve this submission.

### **BD2021-12-02 FDOT Grant Agreement FSTED Funds**

Mr. James Bennett presented this submission for the Board to approve the acceptance of the Public Transportation Grant Agreement for funds to be used for the Talleyrand Marine Terminal upland improvements. This funding is provided at 50% FDOT and 50% JAXPORT towards total project(s) cost of \$6,200,000.

After a motion by Mr. Clarkson and a second by Mr. Bean, the Board voted to approve this submission.

### **AC2021-11-30-01 TMT Warehouse No. 1 Re-Roof-Register Roofing & Sheet Metal, Inc.**

Mr. James Bennett presented this submission for Board approval of the issuance of a contract to Register Roofing & Sheet Metal, Inc. for TMT Warehouse No. 1 re-roof in the amount of \$3,859,000.

After a motion by Mr. Shelton and a second by Mr. Fleming, the Board voted to approve this submission.

**AC2021-11-30-02 Bartram Island DMMA Cell "C" Restoration and Capacity Improvement-Brance Diversified, Inc.**

Mr. James Bennett presented this submission for Board approval of the issuance of a contract to Brance Diversified, Inc. for Bartram Island DMMA Cell "C" restoration and capacity improvement in the amount of \$7,775,000.

After a motion by Mr. Bean and a second by Mr. Clarkson, the Board voted to approve this submission.

**AC2021-11-30-03 Upland DMMA - Buck Island Cell B - Phase 2 - Capacity Creation-Brance Diversified, Inc.**

Mr. James Bennett presented this submission for Board approval of the issuance of Change Order No. 1 to Brance Diversified, Inc. in the amount of \$4,200,000 which includes \$1,350,000 (Owner's Option No. 1), \$1,350,000 (Owner's Option No. 2) and \$1,500,000 (Additional Capacity). The total amount of the contract including this change order will be \$10,150,000.

After a motion by Mr. Fleming and a second by Mr. Clarkson, the Board voted to approve this submission.

**CEO Update**

Mr. Green informed the Board that JAXPORT has secured a new frozen poultry business line which will be exported to the Caribbean through the port's Talleyrand terminal. The first shipment is expected to arrive in January.

Mr. Green stated that he is very proud that JAXPORT plays a significant national security role as one of the country's 17 Strategic Seaports authorized to move military cargo for national defense, foreign humanitarian aid and disaster relief. JAXPORT is the only port in Florida with this designation which requires 24/7 on-call status for emergency response.

Mr. Green announced that American Roll-On Roll-Off Carrier Group (ARC) has relocated its headquarters to Ponte Vedra Beach. ARC is a global logistics and shipping services company and the bulk of their cargo is the movement of military families, as well as assets and equipment for the military around the world. In February of 2022, JAXPORT will be hosting the renaming of two of their ships at our port. Mr. Green stated he, along with Fred Wong, have had several meetings with ARC since their move here and they are working on some joint calls together to secure more military cargo.

Mr. Green informed the Board that he was happy to announce that Carnival Cruise Line will resume sailing from Jacksonville in March of 2022. Mr. Green has Fred Wong speaking with Carnival on a weekly basis, and Carnival has publicly announced this news. JAXPORT is thrilled for the return of the cruise program and the opportunity it brings to our region.

Mr. Green stated that within the next 120 days, he would be delivering some historical and transforming deals to the Board. He announced that the port has signed a letter of intent to start negotiating a long-term lease with Southeast Toyota. Southeast Toyota is the port's longest tenured tenant and has been here well over 50 years. He stated that Southeast Toyota is currently undergoing its 90-day due diligence process for a lease that could run as long as 35 years. Mr. Green informed the Board that no long-term expansion lease has been executed yet, but he is very optimistic one will be in early 2022.

## **Reports**

### **R2021-12-01 Engineering and Construction Update**

Mr. James Bennett provided an overview of the key capital and engineering projects.

### **R2021-12-02 Financial Highlights by Beth McCague**

Ms. Beth McCague provided Financial Highlights to the Board in their books for the month of October 2021.

### **R2021-12-03 Strategic Master Plan Update**

Ms. Beth McCague provided an update to the port's Strategic Master Plan.

### **R2021-12-04 Financials/Vital Statistics**

Mr. Mike McClung provided an overview of the financials and vital statistics.

### **R2021-12-05 Commercial Highlights**

Mr. Robert Peek provided updated commercial highlights to the Board for the month of December 2021.

## **Other Business**

After a motion by Mr. Bean and a second by Mr. Clarkson, the Board unanimously approved travel by one or more Board Members of the Authority for business solicitation purposes or to attend any necessary conferences and/or meetings during the month of February 2022.

## **Miscellaneous**

There was one emergency purchase for the removal of shore power plugs at 4840-shore power pit and replacement with direct burial and waterproof connections. Company: Miller Electric; Cost: \$10,500.00 (NTE).

## **Adjourn**

There being no further business of the Board, the meeting adjourned at 10:25 a.m.




AC-2022-01-01

Once necessary approvals are obtained by the Awards Committee Chairman, the Chief Executive Officer is authorized to sign purchase orders, agreements or contracts for the Award.

Attachments: Taylor Engineering, Inc's proposal received January 10, 2022 attached

**ORIGINATED BY:**

**SUBMITTED FOR APPROVAL**

  
James G. Bennett, PE (Jan 21, 2022 10:14 EST)  
James Bennett, Sr. Director, Engineering & Construction


  
Lisa Gee (Jan 21, 2022 10:20 EST)  
Lisa Gee, Director, Procurement Services

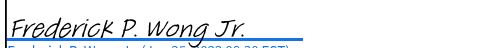
**AWARDS COMMITTEE ACTION**

APPROVED

**APPROVED / REJECTED / DEFERRED**

**CONDITIONS OF APPROVAL (IF ANY):**

  
Retta Rogers (Jan 21, 2022 10:25 EST)  
Retta Rogers, Secretary to Awards Committee


  
Frederick P. Wong Jr. (Jan 25, 2022 08:30 EST)  
Frederick P. Wong Jr., Chairman to Awards Committee

**CHIEF EXECUTIVE OFFICER ACTION**

APPROVED

**APPROVED / REJECTED / DEFERRED**

**CONDITIONS OF APPROVAL (IF ANY):**

  
Eric B. Green (Jan 25, 2022 09:22 EST)  
Eric B. Green, Chief Executive Officer

**CONDITIONS OF APPROVAL (IF ANY):**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Rebecca Dicks, Corporate Secretary

**BOARD DECISION**

APPROVED

REJECTED

DEFERRED

**CONDITIONS OF APPROVAL (IF ANY):**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Wendy O. Hamilton, Chairwoman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Bradley S. Talbert, Board Secretary





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**BARTRAM ISLAND CELL "C"  
RESTORATION AND CAPACITY IMPROVEMENTS  
CONSTRUCTION PHASE ENGINEERING SERVICES  
SCOPE OF WORK**

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**INTRODUCTION**

Taylor Engineering (TAYLOR) has completed engineering design and permitting for the *Bartram Island Cell "C" Restoration and Capacity Improvement Project*. JAXPORT has awarded the construction contract, and construction will commence early in 2022. Completion of this project will provide approximately 1.2 million cubic yards of dredged material storage capacity.

Through this scope of work, TAYLOR will provide construction phase engineering services to monitor the major categories of construction completed by the construction contractor (Contractor), which include the following:

1. Mobilization of all construction equipment and materials to the island construction site
2. Protection of environmental resources and maintenance of erosion control
3. Clearing and grubbing the work areas
4. Excavation and construction of storage cells to receive unsuitable soil materials
5. Offloading of unsuitable soil materials to storage cells and to nearby Cell B
6. Identification and excavation of suitable soil materials for construction
7. Construction of new dike earthworks
8. Installation of dike geosynthetic reinforcement
9. Installation of dike toe drain and outfalls (the underdrain system)
10. Installation of drainage ditches and pipes
11. Relocation of discharge weirs with associated pipeline extensions
12. Placement of topsoil and establishment of grass
13. Demobilization of all construction equipment and remaining materials from the island construction site

TAYLOR has developed its scope of work based on the following assumptions:

1. The project construction phase will extend from approximately January 2022 through January 2024.
  - a. The total contract time — inclusive of the 90-day closing grass establishment period — will run approximately 730 calendar days (24 months).
    - i. During periods of critical activity including major earthwork construction, geosynthetic reinforcement installation, and undrain installation, TAYLOR will conduct daily observations. Observation will occur throughout the 5-day workweek. Observations will primarily focus on witnessing geotechnical quality control tests; suitable/unsuitable material segregation; and proper placement and construction of the dike fill, geosynthetic reinforcement, and underdrain system.

- TAYLOR anticipates that this phase of activities will encompass approximately 7 months to complete and has budgeted accordingly.
- ii. Outside of the critical construction activities described above, TAYLOR will perform field observations on average two days per week. TAYLOR anticipates that this period will encompass a total of 13 months and has budgeted accordingly.
  - iii. During the 4-month closeout period — inclusive of a 3 month grassing establishment period (typically after substantial completion) followed by 1 month for final closeout and demobilization — TAYLOR will conduct up to eight site visits to determine the overall success of grassing establishment and to address any final project closeout and completion issues.
2. While the project technical specifications (Specifications) require that the construction contractor complete quality control geotechnical testing, TAYLOR will sub-contract to *Wood*, the geotechnical engineering teammate that assisted during design. Together, *Wood* and Taylor’s Geoscience laboratory will perform limited geotechnical engineering verification testing services during construction as described below.
  3. Taylor will provide boat transport on a daily/as-needed basis for its staff and team members to access Bartram Island for all project observations and meetings.
  4. Project construction will neither result in any substantial deviations from the project Drawings and Specifications nor violate permit conditions.

If any of these assumptions prove incorrect, TAYLOR will work with JAXPORT to develop appropriate modifications to this scope of work and cost.

## TASKS

### **Task 1. Preconstruction Coordination**

This task includes the following sub-tasks:

- Prepare for and conduct a preconstruction kickoff meeting
- Review contractor preconstruction submittals
- Prepare for and conduct an on-site coordination meeting

TAYLOR staff will conduct a preconstruction kickoff meeting with JAXPORT and the Contractor. The preconstruction kickoff meeting will serve to describe the project and answer contractor’s questions concerning any technical aspects of the work. In addition, TAYLOR will discuss the ground rules and other issues including lines of engineer and contractor authority, general and specific contract conditions, contract administration, progress payment, correspondence procedures, project schedule, submittal register, and labor requirements. TAYLOR will record notes of the preconstruction kickoff meeting discussions and distribute them to JAXPORT and the Contractor. We assume the preconstruction kickoff meeting will occur at JAXPORT offices and may include follow-up site visit. This meeting will occur after the Notice of Award and shortly before or immediately after JAXPORT issues the Notice to Proceed.

TAYLOR will also conduct an additional preconstruction coordination meeting after the kickoff meeting and before the start of active construction. TAYLOR will review contractor preconstruction submittals to prepare a coordination meeting agenda. The submittal review may include schedule of values, list of subcontractors, signature authority, construction schedule, submittal register, environmental protection plan, and quality control plan. This meeting's purpose is to achieve a mutual understanding with the contractor of required quality control; to review submitted draft plans and resolve issues of concern; to discuss project drawings, specifications, schedule, and documentation; and to establish a good working relationship between the contractor's quality control staff and TAYLOR's representatives.

## **Task 2. Construction Engineering Support**

This task includes the following sub-tasks:

- Review shop drawings and/or technical submittals: this scope of work includes review of the shop drawings/submittals required by the Contractor as documented in the draft submittal register provided in the Specifications. Recognizing the likely need for multiple reviews and the potential for additional contractor-requested submittals, the scope of work includes availability to conduct a maximum of 75 submittal reviews (including re-reviews and additional requested submittal reviews).
- Observe all phases of construction activities based on the following expected maximum schedule to provide a total maximum of 271 site visits:
  - During periods of critical construction activity: Daily for an estimated project duration of 7 months with a maximum total of 151 site visit days (weekday visits only)
  - During periods when less critical construction activities are underway: Two days per week for an estimated project duration of 13 months with a maximum total of 112 site visit days.
  - During project grassing establishment and project closeout: A maximum of 8 site visits over a 4-month period.
- Prepare general site visit report following each site visit.
- Field-observe select geotechnical quality assurance verification tests completed by the contractor, and review submitted/documented test results on an ongoing basis.
- Schedule and prepare for up to 52 on-site progress meetings. These meeting will typically occur once every two weeks. During particularly active periods of construction, weekly meetings may be necessary. Progress meeting will not likely be necessary during the 4-month closeout period.
- Prepare up to four work change directives
- Prepare up to six change orders
- Review and comment on 23 monthly pay applications (Final pay application review will occur in Task 3)

TAYLOR will assist JAXPORT to administer the construction contract. In-office duties will include general record keeping, reviewing the contractor's shop drawings and submittals, reviewing

progress pay applications, providing senior review of the work progress, and assisting with the preparation of change directives and change orders, if required. TAYLOR will remain available throughout construction to provide advice and consultation to JAXPORT through teleconference and virtual meetings. In this role, TAYLOR will address questions pertaining to engineering, design, permitting issues, and any proposed changes to project design.

TAYLOR will provide onsite construction observation throughout the project duration based on the schedule and maximum number of visits outlined above. Site visits will include observation of the work and general monitoring of the contractor's means, methods, and sequence. TAYLOR will observe the contractor's activities to evaluate whether they are within general conformance with the project Drawings, Specifications, and environmental permits. As part of the observation process, each day on site, TAYLOR will complete a daily construction report, which will become part of the project record. The report will include the name of the observer, weather conditions, date, personnel/visitors on site, the contractor's personnel and equipment, summary of events, photographs, and the contractor's representative and observer's signature. These reports will constitute a daily log of construction progress.

Construction observation will evaluate the contractor's work to

- Construct storage cells
- Offload unsuitable soil materials
- Prepare the dike foundation
- Maintain dike material quality and compaction requirements
- Construct the dike underdrain system
- Install dike geosynthetic reinforcement
- Construct the dike and associated earthwork features (ditches and drainage features)
- Relocate weirs and extend discharge piping
- Maintain a current construction schedule
- Provide submittals on time and in proper format
- Protect environmental resources
- Follow quality control procedures
- Remove waste and debris from the project site
- Establish grassing

For quality control, TAYLOR's Geoscience Laboratory will collaborate with *Wood*, the projects geotechnical engineering teammate, to collect and document earthwork (proctor tests, in-place density, grain-size, organic material) verification tests on an occasional basis. *Wood* will visit the site to collect verification tests up to a maximum of 30 times during the construction duration. These visits will occur during critical milestones in the construction.

TAYLOR will schedule and attend on-site construction progress meetings a minimum of once every two weeks during active construction. Attendees will include representatives from the construction contractor and its subconsultants. In addition to a field observation staff member,

a TAYLOR senior staff member (the project manager, Engineer of Record, or project engineer) will also attend progress meetings. The progress meeting agenda will generally include review of notes of previous meetings, work progress since the previous meeting, current definable features of work (i.e., construction schedule, submittal register, testing review, changes to construction schedule, contract quality for materials and workmanship, and any pending modifications or substitutions), and other business, as appropriate. These meetings will allow the engineering team to address construction problems or technical aspects of the work and further ascertain whether work is progressing in general conformance with permit conditions, Drawings, and Specifications. If unexpected problems arise outside of the regularly scheduled progress meetings, TAYLOR will coordinate and attend problem resolution/progress meetings on site as necessary within the maximum number of meetings noted above.

Throughout construction, TAYLOR will notify JAXPORT of any permit violations, work stoppages, or conflicts, and recommend to JAXPORT ways to resolve these issues. TAYLOR is not responsible for jobsite safety and will not direct the contractor's means, methods, and sequence.

### **Task 3. Project Closeout**

This task includes the following sub-tasks:

- Develop preliminary and final punch lists
- Certify substantial completion of the project
- Attend pre-final and final observation and closeout meetings
- Conduct final review/acceptance of field data
- Certify final completion of the project to appropriate regulatory agencies

Once JAXPORT receives from the contractor a request to certify the project substantially complete, TAYLOR will visit the project site to make our determination of the degree of completion. If TAYLOR cannot certify substantial completion, TAYLOR will develop preliminary and final punch lists of items for the Contractor to complete or correct. With concurrence from JAXPORT, TAYLOR will transmit this list to the Contractor. Upon completion of outlined items, TAYLOR will certify the project substantially complete. This scope of work includes two on-site meetings with a TAYLOR senior staff member (the project manager, Engineer of Record, or project engineer) in attendance.

TAYLOR will collect and review the following information from the Contractor before project closeout:

- Final pay application
- Post-construction record drawings and as-built survey
- Final contractor certifications and documentation

TAYLOR will collate all project files into a digital closeout package. We will assist JAXPORT to coordinate permit-required closeout submittals. Following satisfactory completion of the project, TAYLOR will prepare and submit to the FDEP a statement of completion and a certification in accordance with the FDEP permit requirements.

**EXCLUDED ACTIVITIES**

This scope of work excludes the following work or activities unless later included through issuance of an amendment to this scope of work or subsequent task order:

- Professional survey services for construction layout, verification, or as-built documentation.
- Permitting services to seek permit modifications or address violations of permits.
- Boat transportation of Contractor staff to and from Bartram Island.
- Services beyond the calendar expectations and maximum number of events/actions outlined above.

**DELIVERABLES**

The table below lists the deliverable on a task-by-task basis.

Task	Deliverables
<b>Task 1. Preconstruction Coordination</b>	<ul style="list-style-type: none"> <li>• Preconstruction kickoff meeting agenda and notes</li> <li>• Preconstruction coordination meeting agenda and notes</li> </ul>
<b>Task 2. Construction Engineering Support</b>	<ul style="list-style-type: none"> <li>• Written Contractor submittal reviews</li> <li>• Site visit observation reports</li> <li>• Progress meeting agenda and notes</li> <li>• Change Order/Change Directive document development</li> <li>• Compiled result of geotechnical verification tests</li> <li>• Pay application review summary and recommendations</li> </ul>
<b>Task 3. Project Closeout</b>	<ul style="list-style-type: none"> <li>• Substantial completion punch list/documentation</li> <li>• Construction project digital file compilation and closeout package</li> <li>• FDEP completion certification</li> </ul>

**SCHEDULE**

Events under this scope of work will occur in parallel with and in coordination with the Contractor’s progress in the field. All work will occur over a maximum 24- month calendar period.

Any extension of the project schedule or maximum number of events/actions outlined above may require authorization for revised scope of work and fee.

**FEE**

TAYLOR will complete the work described herein on a Time and Materials Basis for a Not-to-Exceed Fee of \$777,416.80. The table below summarizes the fees on a task-by-task basis.

Exhibit A provides a detailed breakdown of hours, rates, and fees on a task-by-task basis.

Attachment 1 provides a breakdown of subcontractor—*Wood's*—fees.

Task	Taylor Fee	Sub-contractor and Other Direct Costs	Total Fee
<b>Task 1. Preconstruction Coordination</b>	\$19,558.12	-	19,558.12
<b>Task 2. Construction Engineering Support</b>	\$603,765.60	\$130,227.00	\$733,992.60
<b>Task 3. Project Closeout</b>	\$23,866.08	-	\$23,866.08
<b>TOTALS</b>	<b>\$647,189.80</b>	<b>\$130,227.00</b>	<b>\$777,416.80</b>



**Exhibit A**

**Task-by-Task Fee Summary**

**TAYLOR ENGINEERING, INC.  
COST SUMMARY BY TASK**

**BARTRAM ISLAND CELL "C"  
RESTORATION AND CAPACITY IMPROVEMENTS  
CONSTRUCTION PHASE ENGINEERING SERVICES**

**TASK 1: Preconstruction Coordination**

<i>Labor</i>	Hours	Cost	Task Totals
Project Manager	39.0	7,605.00	
Sr. Engineer/ Architect	31.0	5,890.00	
Design Engineer or Architect	54.0	6,063.12	
Total Man-Hours	124.0		
Labor Cost			19,558.12
<b>Total Task 1</b>			<b>\$ 19,558.12</b>

**TASK 2: Construction Engineering Support**

<i>Labor</i>	Hours	Cost	Task Totals
Project Manager	603.0	117,585.00	
Sr. Engineer/ Architect	349.0	66,310.00	
Design Engineer or Architect	667.0	74,890.76	
Designer or Technician	2,880.0	316,800.00	
Clerical / Secretary	416.0	28,179.84	
Total Man-Hours	4,915.0		
Labor Cost			603,765.60
<b>Total Task 2</b>			<b>\$ 733,992.60</b>

<i>Non-Labor</i>	Units	Cost	
Boat Use/Pilot: (24 months Duration)	24.0	72,000.00	
Wood Geotechnical Verification Testing (incl 5% markup)	1.05	52,227.00	
Taylor Geoscience Laboratory Testing	1.0	6,000.00	
Total Non-Labor Cost			130,227.00

**TASK 3: Project Closeout**

<i>Labor</i>	Hours	Cost	Task Totals
Project Manager	32.0	6,240.00	
Sr. Engineer/ Architect	32.0	6,080.00	
Design Engineer or Architect	16.0	1,796.48	
Designer or Technician	64.0	7,040.00	
Clerical / Secretary	40.0	2,709.60	
Total Man-Hours	184.0		
Labor Cost			23,866.08
<b>Total Task 3</b>			<b>\$ 23,866.08</b>

**Project Total \$ 777,416.80**

**Attachment 1**

**Wood**

**Fee Summary**

**FEE ESTIMATE FOR CONSTRUCTION-PHASE SUPPORT SERVICES**

Bartram Island DMMA Cell "C" Expansion  
 Jacksonville, Duval County, Florida  
 Prepared by: M.B. Woodward (1/5/2022) Revised J.T. Ambruster (TE) (1/7/2022)

Task	Unit	Units per Day	No. of Days	Total Quantity	Unit Cost	Total Cost	Comments
<b>Senior Engineering Technician, Site Visits</b>							
- Travel Time from Wood's office to boat ramp, round trip	Hour	2.5	30	75	\$ 100.00	\$ 7,500.00	Sr. Engineering Technician
- Vehicle Mileage, office to boat ramp, round trip	Mile	44	30	1320	\$ 0.75	\$ 990.00	Assume boat ramp at Arlington Lions Club Park
- On-Site Time, including transport time from boat ramp to island	Hour	8	30	240	\$ 100.00	\$ 24,000.00	Sr. Engineering Technician
<b>Laboratory Testing</b>							
- Modified Proctor Compaction Test	Each	1	30	30	\$ 150.00	\$ 4,500.00	Representative samples of dike fill; includes a corresponding grain size distribution test
- Grain Size Distribution Test	Each	2	30	60	\$ 60.00	\$ 3,600.00	Representative samples of dike fill
- Organic Content Test	Each	2	30	60	\$ 40.00	\$ 2,400.00	Representative samples of dike fill
<b>Engineering Support</b>							
- Principal Geotechnical Engineer	Hour	1	30	30	\$ 225.00	\$ 6,750.00	As needed
						<b>Total:</b>	<b>\$ 49,740.00</b>

**Assumptions:**

- One site visit every two to three weeks (on average) over an approximately 14- to 18-month duration beginning in February of 2022 by a representative from our office to perform verification field density testing and to collect representative soil samples for laboratory verification testing
- Taylor Engineering will provide transportation from the boat ramp to Bartram Island and back to the boat ramp using a boat owned by Taylor Engineering
- Taylor Engineering field personnel will accompany our field representative and will remain on the island at all times during our site visits
- The time spent on the island will be limited to 6 hours per visit
- Transport time each way between the boat ramp and the island will not exceed 1 hour
- The purpose of the engineering support is to answer questions or participate in team meetings on an as-needed basis (one hour per visit is assumed)

**BD2022-02-01**



**SUBMISSION  
FOR  
BOARD APPROVAL**

**SUBJECT: SOVEREIGNTY SUBMERGED LAND LEASE RENEWAL  
BIMT MAIN WHARF (SSLL NO.: 160223992)**

**COST: \$0.00 (Renewal Fee)**

**BUDGETED: N/A**

**SOURCE OF FUNDS: N/A**

**BACKGROUND:** JAXPORT originally entered into a Lease Agreement No. 160223992 (“SSLL”) with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (“State”) in 2001 for the purpose of operating a six-slip commercial docking facility to be used exclusively for mooring of vessels in conjunction with an Upland Marine Terminal. The lease has subsequently been renewed every five (5) years for continued operation on the same terms and conditions as the original lease.

**STATUS:** There is no cost to JAXPORT for the lease renewal. The State will finalize the renewal upon acceptance.

**RECOMMENDATION:** Recommendation is hereby made for the Board to approve the Lease renewal and that the Board authorize the Chief Executive Officer, or his designee, to execute all documents necessary for the Submerged Lands Lease renewal as shown in the attachment.

**ATTACHMENTS:**

- Map showing location of SSLL and Sovereignty Submerged Lands Lease Instrument with Sketch and Property Description
- Agreement for execution with Board of Trustees of Internal Improvement Trust Fund of the State of Florida.

**BD2022-02-01**



## SUBMISSION FOR BOARD APPROVAL

**RECOMMENDED FOR APPROVAL:**

Frederick P. Wong Jr.  
Chief Operating Officer

**Signature:** Frederick P. Wong Jr.  
Frederick P. Wong Jr. (Jan 31, 2022 13:36 EST)

**Email:** frederick.wong@jaxport.com

\_\_\_\_\_  
Signature and Date

**SUBMITTED FOR APPROVAL:**

Eric Green  
Chief Executive Officer

**Signature:** Eric B. Green  
Eric B. Green (Jan 31, 2022 15:07 EST)

**Email:** eric.green@jaxport.com

\_\_\_\_\_  
Signature and Date

**BOARD APPROVAL:**

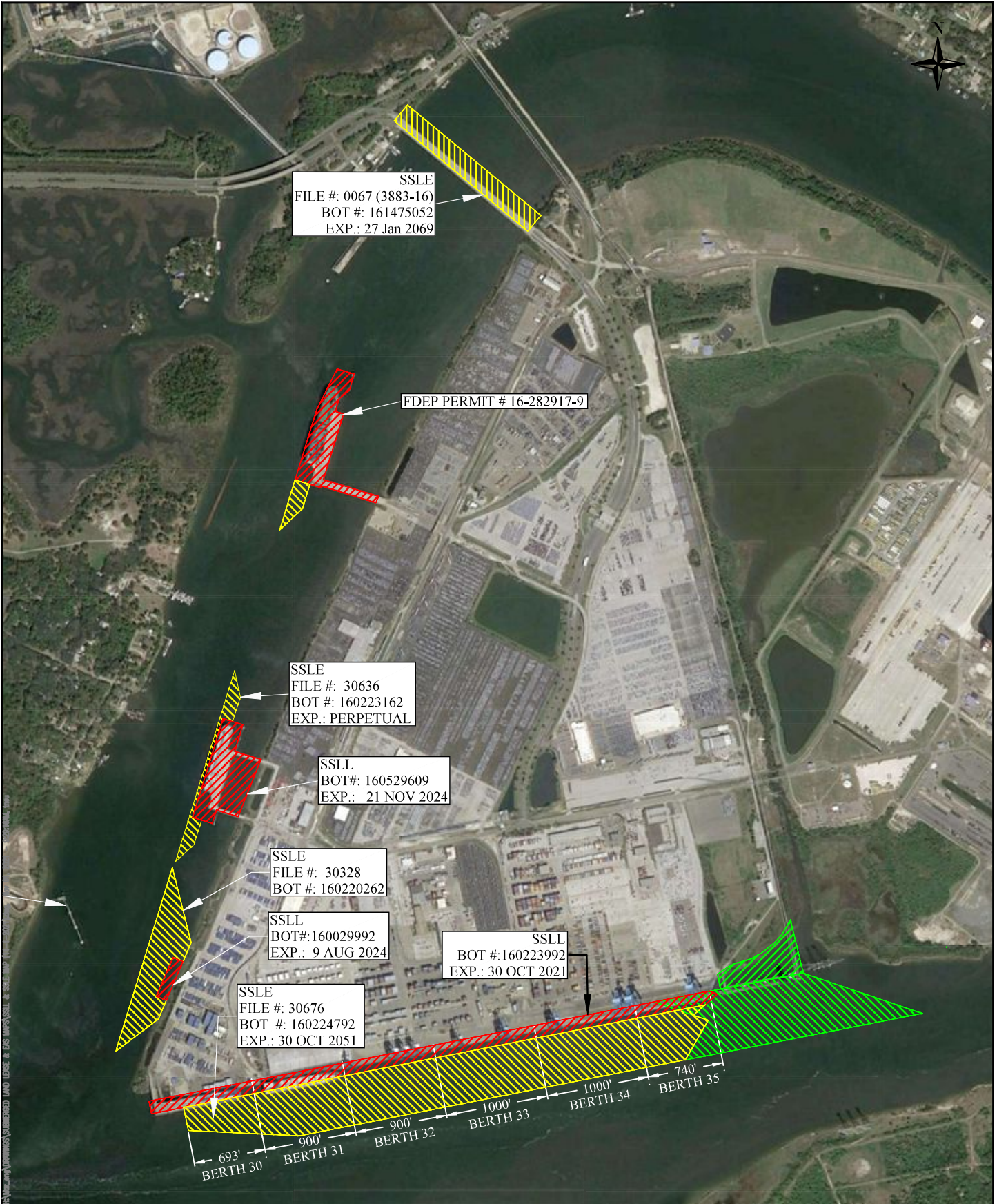
2/14/2022  
Meeting Date

\_\_\_\_\_  
Rebecca Dicks/Recording Secretary

**ATTEST:**

\_\_\_\_\_  
Wendy O. Hamilton, Chairwoman

\_\_\_\_\_  
Bradley S. Talbert, Secretary



		BLOUNT ISLAND MARINE TERMINAL SUBMERGED LAND LEASES & EASEMENT 2021		JAXPORT ENGINEERING & CONSTRUCTION DEPARTMENT		DATE	11/1/21
		LEGEND JAXPORT SSLL JAXPORT SSLE SSLL OTHERS		2831 TALLEYRAND AVENUE JACKSONVILLE, FL 32206		SCALE	NTS



This Instrument Prepared By:  
Raelene Lenox  
Action No. 44402  
Bureau of Public Land Administration  
3900 Commonwealth Boulevard  
Mail Station No. 125  
Tallahassee, Florida 32399

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND  
OF THE STATE OF FLORIDA

SOVEREIGNTY SUBMERGED LANDS FEE WAIVED LEASE RENEWAL

BOT FILE NO. 160223992

THIS LEASE is hereby issued by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the Lessor.

WITNESSETH: That for and in consideration of the faithful and timely performance of and compliance with all terms and conditions stated herein, the Lessor does hereby lease to Jacksonville Port Authority, a body politic and corporate, hereinafter referred to as the Lessee, the sovereignty lands as defined in 18-21.003, Florida Administrative Code, contained within the following legal description:

A parcel of sovereignty submerged land in Section 25, Township 01 South, Range 27 East, and un-surveyed Section 30, Township 01 South, Range 28 East, in St Johns River, Duval County, Florida, containing 695,894 square feet, more or less, as is more particularly described and shown on Attachment A, dated August 7, 2001 and February 6, 2015.

TO HAVE THE USE OF the hereinabove described premises from October 30, 2021, the effective date of this lease renewal, through October 30, 2026, the expiration date of this lease renewal. The terms and conditions on and for which this lease is granted are as follows:

1. USE OF PROPERTY: The Lessee is hereby authorized to operate a 6-slip commercial docking facility to be used exclusively for mooring of vessels in conjunction with an upland marine terminal, without fueling facilities, with a sewage pumpout facility if it meets the regulatory requirements of the State of Florida Department of Environmental Protection or State of Florida Department of Health, whichever agency has jurisdiction, and without liveboards as defined in paragraph 25, as shown and conditioned in Attachment A. All of the foregoing subject to the remaining conditions of this lease.

[02-29]



2. AGREEMENT TO EXTENT OF USE: This lease is given to the Lessee to use or occupy the leased premises only for those activities specified herein. The Lessee shall not (i) change or add to the approved use of the leased premises as defined herein (e.g., from commercial to multi-family residential, from temporary mooring to rental of wet slips, from rental of wet slips to contractual agreement with third party for docking of cruise ships, from rental of recreational pleasure craft to rental or temporary mooring of charter/tour boats, from loading/offloading commercial to rental of wet slips, etc.); (ii) change activities in any manner that may have an environmental impact that was not considered in the original authorization or regulatory permit; or (iii) change the type of use of the riparian uplands or as permitted by the Lessee's interest in the riparian upland property that is more particularly described in Attachment B without first obtaining a regulatory permit/modified permit, if applicable, the Lessor's written authorization in the form of a modified lease, the payment of additional fees, if applicable, and, if applicable, the removal of any structures which may no longer qualify for authorization under the modified lease. If at any time during the lease term this lease no longer satisfies the requirements of subparagraph 18-21.011(1)(b)7., Florida Administrative Code, for a fee waived lease, the Lessee shall be required to pay an annual lease fee in accordance with Rule 18-21.011, Florida Administrative Code, and if applicable, remove any structures which may no longer qualify for authorization under this lease.

3. SUBMITTING ANNUAL CERTIFIED FINANCIAL RECORDS: Within 30 days after each anniversary of the effective date of this lease, the Lessee shall submit annual certified financial records of income and expenses to the State of Florida Department of Environmental Protection, Division of State Lands, Bureau of Public Land Administration, 3900 Commonwealth Blvd, MS 130, Tallahassee, FL 32399. "Income" is defined in subsection 18-21.003(32), Florida Administrative Code. The submitted financial records shall be certified by a certified public accountant.

4. EXAMINATION OF LESSEE'S RECORDS: For purposes of this lease, the Lessor is hereby specifically authorized and empowered to examine, for the term of this lease including any extensions thereto plus three (3) additional years, at all reasonable hours, the books, records, contracts, and other documents confirming and pertaining to the computation of annual lease payments as specified in paragraph two (2) above.

5. MAINTENANCE OF LESSEE'S RECORDS: The Lessee shall maintain separate accounting records for: (i) the gross revenue derived directly from the use of the leased premises, (ii) the gross revenue derived indirectly from the use of the leased premises, and (iii) all other gross revenue derived from the Lessee's operations on the riparian upland property. The Lessee shall secure, maintain and keep all records for the entire term of this lease plus three (3) additional years. This period shall be extended for an additional two (2) years upon request for examination of all records and accounts for lease verification purposes by the Lessor.

6. PROPERTY RIGHTS: The Lessee shall make no claim of title or interest to said lands hereinbefore described by reason of the occupancy or use thereof, and all title and interest to said land hereinbefore described is vested in the Lessor. The Lessee is prohibited from including, or making any claim that purports to include, said lands described or the Lessee's leasehold interest in said lands into any form of private ownership, including but not limited to any form of condominium or cooperative ownership. The Lessee is further prohibited from making any claim, including any advertisement, that said land, or the use thereof, may be purchased, sold, or re-sold.

7. INTEREST IN RIPARIAN UPLAND PROPERTY: During the term of this lease, the Lessee shall maintain satisfactory evidence of sufficient upland interest as required by paragraph 18-21.004(3)(b), Florida Administrative Code, in the riparian upland property that is more particularly described in Attachment B and by reference made a part hereof together with the riparian rights appurtenant thereto. If such interest is terminated or the Lessor determines that such interest did not exist on the effective date of this lease, this lease may be terminated at the option of the Lessor. If the Lessor terminates this lease, the Lessee agrees not to assert a claim or defense against the Lessor arising out of this lease. Prior to sale and/or termination of the Lessee's interest in the riparian upland property, the Lessee shall inform any potential buyer or transferee of the Lessee's interest in the riparian upland property and the existence of this lease and all its terms and conditions and shall complete and execute any documents required by the Lessor to effect an assignment of this lease, if consented to by the Lessor. Failure to do so will not relieve the Lessee from responsibility for full compliance with the terms and conditions of this lease which include, but are not limited to, payment of all fees and/or penalty assessments incurred prior to such act.

8. ASSIGNMENT OF LEASE: This lease shall not be assigned or otherwise transferred without prior written consent of the Lessor or its duly authorized agent. Such assignment or other transfer shall be subject to the terms, conditions and provisions of this lease, current management standards and applicable laws, rules and regulations in effect at that time. Any assignment or other transfer without prior written consent of the Lessor shall be null and void and without legal effect.

9. LIABILITY/INVESTIGATION OF ALL CLAIMS: The Lessee shall investigate all claims of every nature at its expense. Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees and agents thereof. Nothing herein shall be construed as an indemnity or a waiver of sovereign immunity enjoyed by any party hereto, as provided in Section 768.28, Florida Statutes, as amended from time to time, or any other law providing limitations on claims.

10. NOTICES/COMPLIANCE/TERMINATION: The Lessee binds itself, its successors and assigns, to abide by the provisions and conditions herein set forth, and said provisions and conditions shall be deemed covenants of the Lessee, its successors and assigns. In the event the Lessee fails or refuses to comply with the provisions and conditions herein set forth, or in the event the Lessee violates any of the provisions and conditions herein set forth, and the Lessee fails or refuses to comply with any of said provisions or conditions within twenty (20) days of receipt of the Lessor's notice to correct, this lease may be terminated by the Lessor upon thirty (30) days written notice to the Lessee. If canceled, all of the above-described parcel of land shall revert to the Lessor. All notices required to be given to the Lessee by this lease or applicable law or administrative rules shall be sufficient if sent by U.S. Mail to the following address:

Jacksonville Port Authority  
PO Box 3005  
Jacksonville, FL 32206

The Lessee shall notify the Lessor by certified mail of any change to this address at least ten (10) days before the change is effective.

11. TAXES AND ASSESSMENTS: The Lessee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective period of this lease.

12. NUISANCES OR ILLEGAL OPERATIONS: The Lessee shall not permit the leased premises or any part thereof to be used or occupied for any purpose or business other than herein specified unless such proposed use and occupancy are consented to by the Lessor and the lease is modified accordingly, nor shall Lessee knowingly permit or suffer any nuisances or illegal operations of any kind on the leased premises.

13. MAINTENANCE OF FACILITY/RIGHT TO INSPECT: The Lessee shall maintain the leased premises in good condition, keeping the structures and equipment located thereon in a good state of repair in the interests of public health, safety and welfare. No dock or pier shall be constructed in any manner that would cause harm to wildlife. The leased premises shall be subject to inspection by the Lessor or its designated agent at any reasonable time.

14. NON-DISCRIMINATION: The Lessee shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicap, or marital status with respect to any activity occurring within the area subject to this lease or upon lands adjacent to and used as an adjunct of the leased area.

15. ENFORCEMENT OF PROVISIONS: No failure, or successive failures, on the part of the Lessor to enforce any provision, nor any waiver or successive waivers on its part of any provision herein, shall operate as a discharge thereof or render the same inoperative or impair the right of the Lessor to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.

16. PERMISSION GRANTED: Upon expiration or cancellation of this lease all permission granted hereunder shall cease and terminate.

17. RENEWAL PROVISIONS: Renewal of this lease shall be at the sole option of the Lessor. Such renewal shall be subject to the terms, conditions and provisions of management standards and applicable laws, rules and regulations in effect at that time. In the event that the Lessee is in full compliance with the terms of this lease, the Lessor will begin the renewal process. The term of any renewal granted by the Lessor shall commence on the last day of the previous lease term. In the event the Lessor does not grant a renewal, the Lessee shall vacate the leased premises and remove all structures and equipment occupying and erected thereon at its expense. The obligation to remove all structures authorized herein upon termination of this lease shall constitute an affirmative covenant upon the Lessee's interest in the riparian upland property more particularly described in Attachment B which shall run with the title to the Lessee's interest in said riparian upland property and shall be binding upon the Lessee and the Lessee's successors in title or successors in interest.

18. REMOVAL OF STRUCTURES/ADMINISTRATIVE FINES: If the Lessee does not remove said structures and equipment occupying and erected upon the leased premises after expiration or cancellation of this lease, such structures and equipment will be deemed forfeited to the Lessor, and the Lessor may authorize removal and may sell such forfeited structures and equipment after ten (10) days written notice by certified mail addressed to the Lessee at the address specified in Paragraph 12 or at such address on record as provided to the Lessor by the Lessee. However, such remedy shall be in addition to all other remedies available to the Lessor under applicable laws, rules and regulations including the right to compel removal of all structures and the right to impose administrative fines.

19. REMOVAL COSTS/LIEN ON RIPARIAN UPLAND PROPERTY: Subject to the noticing provisions of Paragraph 20 of this lease, any costs incurred by the Lessor in removal of any structures and equipment constructed or maintained on state lands shall be paid by Lessee and any unpaid costs and expenses shall constitute a lien upon the Lessee's interest in the riparian upland property that is more particularly described in Attachment B. This lien on the Lessee's interest in the riparian upland property shall be enforceable in summary proceedings as provided by law.

20. RIPARIAN RIGHTS/FINAL ADJUDICATION: In the event that any part of any structure authorized hereunder is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent riparian rights, Lessee agrees to either obtain written consent for the offending structure from the affected riparian owner or to remove the interference or encroachment within 60 days from the date of the adjudication. Failure to comply with this paragraph shall constitute a material breach of this lease agreement and shall be grounds for immediate termination of this lease agreement at the option of the Lessor.

21. AMENDMENTS/MODIFICATIONS: This lease is the entire and only agreement between the parties. Its provisions are not severable. Any amendment or modification to this lease must be in writing, must be accepted, acknowledged and executed by the Lessee and Lessor, and must comply with the rules and statutes in existence at the time of the execution of the modification or amendment. Notwithstanding the provisions of this paragraph, if mooring is authorized by this lease, the Lessee may install boatlifts within the leased premises without formal modification of the lease provided that (a) the Lessee obtains any state or local regulatory permit that may be required; and (b) the location or size of the lift does not increase the mooring capacity of the docking facility.

22. ADVERTISEMENT/SIGNS/NON-WATER DEPENDENT ACTIVITIES/ADDITIONAL ACTIVITIES/MINOR STRUCTURAL REPAIRS: No permanent or temporary signs directed to the boating public advertising the sale of alcoholic beverages shall be erected or placed within the leased premises. No restaurant or dining activities are to occur within the leased premises. The Lessee shall ensure that no permanent, temporary or floating structures, fences, docks, pilings or any structures whose use is not water-dependent shall be erected or conducted over sovereignty submerged lands without prior written consent from the Lessor. No additional structures and/or activities including dredging, relocation/realignment or major repairs or renovations to authorized structures, shall be erected or conducted on or over sovereignty, submerged lands without prior written consent from the Lessor. Unless specifically authorized in writing by the Lessor, such activities or structures shall be considered unauthorized and a violation of Chapter 253, Florida Statutes, and shall subject the Lessee to administrative fines under Chapter 18-14, Florida Administrative Code. This condition does not apply to minor structural repairs required to maintain the authorized structures in a good state of repair in the interests of public health, safety or welfare; provided, however, that such activities shall not exceed the activities authorized by this lease.

23. USACE AUTHORIZATION: Prior to commencement of construction and/or activities authorized herein, the Lessee shall obtain the U.S. Army Corps of Engineers (USACE) permit if it is required by the USACE. Any modifications to the construction and/or activities authorized herein that may be required by the USACE shall require consideration by and the prior written approval of the Lessor prior to the commencement of construction and/or any activities on sovereign, submerged lands.

24. COMPLIANCE WITH FLORIDA LAWS: On or in conjunction with the use of the leased premises, the Lessee shall at all times comply with all Florida Statutes and all administrative rules promulgated thereunder. Any unlawful activity which occurs on the leased premises or in conjunction with the use of the leased premises shall be grounds for the termination of this lease by the Lessor.

25. LIVEABOARDS: The term "liveaboard" is defined as a vessel docked at the facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within a thirty (30) day period. If liveaboards are authorized by paragraph one (1) of this lease, in no event shall such "liveaboard" status exceed six (6) months within any twelve (12) month period, nor shall any such vessel constitute a legal or primary residence.

26. GAMBLING VESSELS: During the term of this lease and any renewals, extensions, modifications or assignments thereof, Lessee shall prohibit the operation of or entry onto the leased premises of gambling cruise ships, or vessels that are used principally for the purpose of gambling, when these vessels are engaged in "cruises to nowhere," where the ships leave and return to the state of Florida without an intervening stop within another state or foreign country or waters within the jurisdiction of another state or foreign country, and any watercraft used to carry passengers to and from such gambling cruise ships.

*[Remainder of page intentionally left blank; Signature page follows]*

IN WITNESS WHEREOF, the Lessee and the Lessor have executed this instrument on the day and year first above written.

WITNESSES:

BOARD OF TRUSTEES OF THE INTERNAL  
IMPROVEMENT TRUST FUND OF THE STATE  
OF FLORIDA

\_\_\_\_\_  
Original Signature

(SEAL)

\_\_\_\_\_  
Print/Type Name of Witness

BY: \_\_\_\_\_  
Brad Richardson, Chief, Bureau of Public Land Administration,  
Division of State Lands, State of Florida Department of  
Environmental Protection, as agent for and on behalf of the Board  
of Trustees of the Internal Improvement Trust Fund of the  
State of Florida.

\_\_\_\_\_  
Original Signature

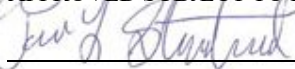
\_\_\_\_\_  
Print/Type Name of Witness

"LESSOR"

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me by means of physical presence this \_\_\_\_\_ day of \_\_\_\_\_  
20\_\_\_\_, by Brad Richardson, Chief, Bureau of Public Land Administration, Division of State Lands, State of Florida  
Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust  
Fund of the State of Florida. He is personally known to me.

APPROVED SUBJECT TO PROPER EXECUTION:

  
\_\_\_\_\_  
DEP Attorney Date

11/7/2021

\_\_\_\_\_  
Notary Public, State of Florida

\_\_\_\_\_  
Printed, Typed or Stamped Name

My Commission Expires:

\_\_\_\_\_  
Commission/Serial No. \_\_\_\_\_

WITNESSES:

Jacksonville Port Authority,  
a body politic and corporate \_\_\_\_\_ (SEAL)

\_\_\_\_\_  
Original Signature

BY: \_\_\_\_\_  
Original Signature of Executing Authority

\_\_\_\_\_  
Typed/Printed Name of Witness

Eric Green  
Typed/Printed Name of Executing Authority

\_\_\_\_\_  
Original Signature

Chief Executive Officer  
Title of Executing Authority

\_\_\_\_\_  
Typed/Printed Name of Witness

“LESSEE”

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of \_\_ physical presence or \_\_ online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Eric Green as Chief Executive Officer of Jacksonville Port Authority a body politic and corporation, for and on behalf of the port authority. He/she is personally known to me or who has produced \_\_\_\_\_, as identification.

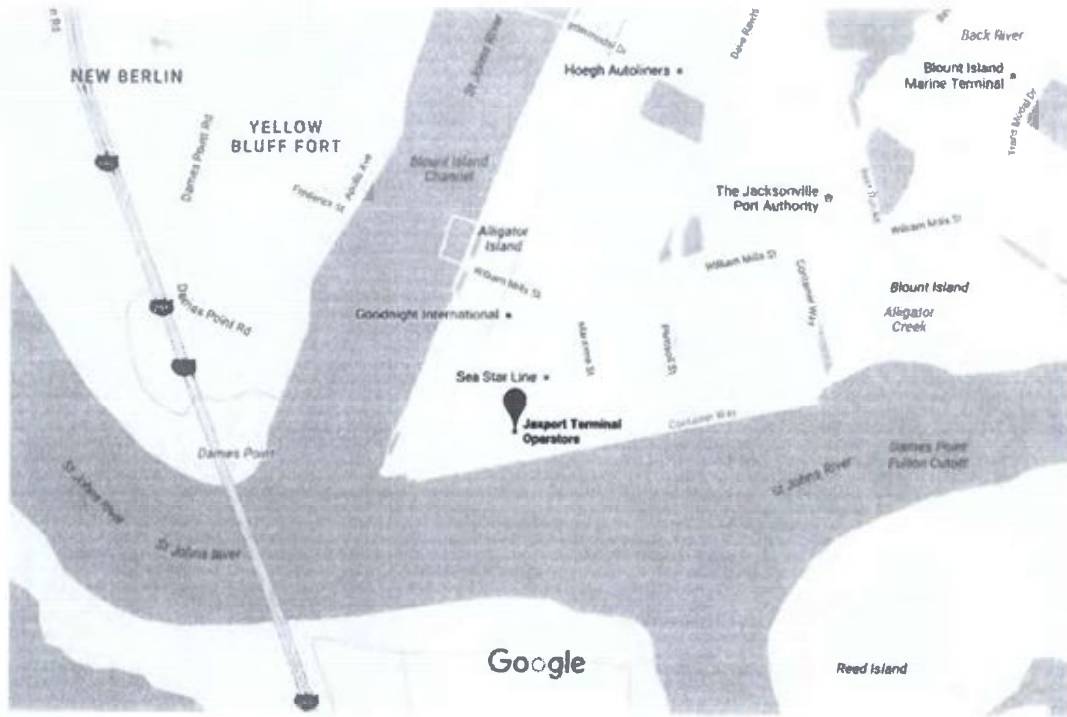
My Commission Expires:

\_\_\_\_\_  
Signature of Notary Public

Notary Public, State of \_\_\_\_\_

\_\_\_\_\_  
Commission/Serial No. \_\_\_\_\_

\_\_\_\_\_  
Printed, Typed or Stamped Name



Jaxport Terminal



Robert M. Angas Associates, Inc.  
Land Surveyors, Planners and Civil Engineers  
Since 1924

14775 St. Augustine Road  
Jacksonville, FL 32258  
Tel: (904) 642-8550  
Fax: (904) 642-4165

August 7, 2001

Work Order No. 00-251sl-B  
**Jaxport - Blount Island**

**Submerged Land Lease**

A portion of Submerged Sovereign Lands of the State of Florida, lying in the St. Johns River, unsurveyed Section 25, Township 1 South, Range 27 East, together with unsurveyed Section 30, Township 1 South, Range 28 East, all lying in Duval County, Florida, being more particularly described as follows:

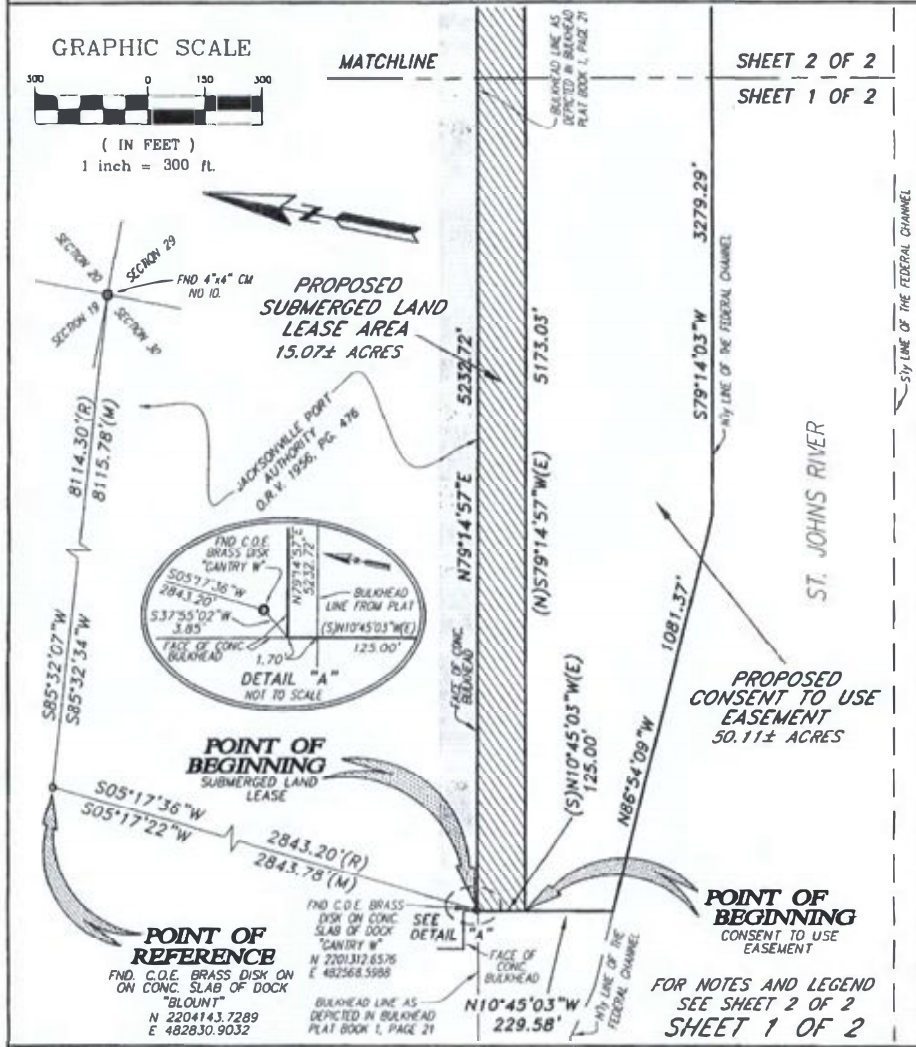
For a Point of Reference, commence at an United States Army Corps of Engineers' brass disk designated "Blount", located on the Southerly end of a concrete dock on the Westerly side of Blount Island, said point bearing South  $85^{\circ}32'07''$  West, 8114.30 feet from the Northeast corner of said Section 30; thence South  $05^{\circ}17'36''$  West, 2843.20 feet to another United States Army Corps of Engineers' brass disk designated "Gantry W", located on the Westerly end of a concrete bulkhead on the Southerly side of said Blount Island; thence South  $37^{\circ}55'02''$  West, 3.85 feet to the Point of Beginning.

From said Point of Beginning, thence North  $79^{\circ}14'57''$  East, 5232.72 feet; thence South  $70^{\circ}45'03''$  East, 90.47 feet to an intersection with the Northerly line of the Federal Channel of the St. Johns River; thence South  $49^{\circ}13'47''$  West, along said Northerly line, 159.43 feet; thence South  $79^{\circ}14'57''$  West, departing said Northerly line, 5173.03 feet; thence North  $10^{\circ}45'03''$  West, 125.00 feet to the Point of Beginning.

Containing 15.07 acres, more or less.



**SPECIFIC PURPOSE SURVEY TO SHOW**  
 PROPOSED CONSENT TO USE EASEMENT AND PROPOSED SUBMERGED LAND LEASE  
 OF A PORTION OF SUBMERGED SOVEREIGN LANDS OF THE STATE OF FLORIDA LYING IN  
 THE ST. JOHNS RIVER, UNSURVEYED SECTION 25, TOWNSHIP 1 SOUTH, RANGE 27 EAST,  
 TOGETHER WITH UNSURVEYED SECTION 30, TOWNSHIP 1 SOUTH, RANGE 28 EAST,  
 ALL LYING IN DUVAL COUNTY, FLORIDA,  
 BEING MORE PARTICULARLY DESCRIBED IN SEPARATE ATTACHMENT.



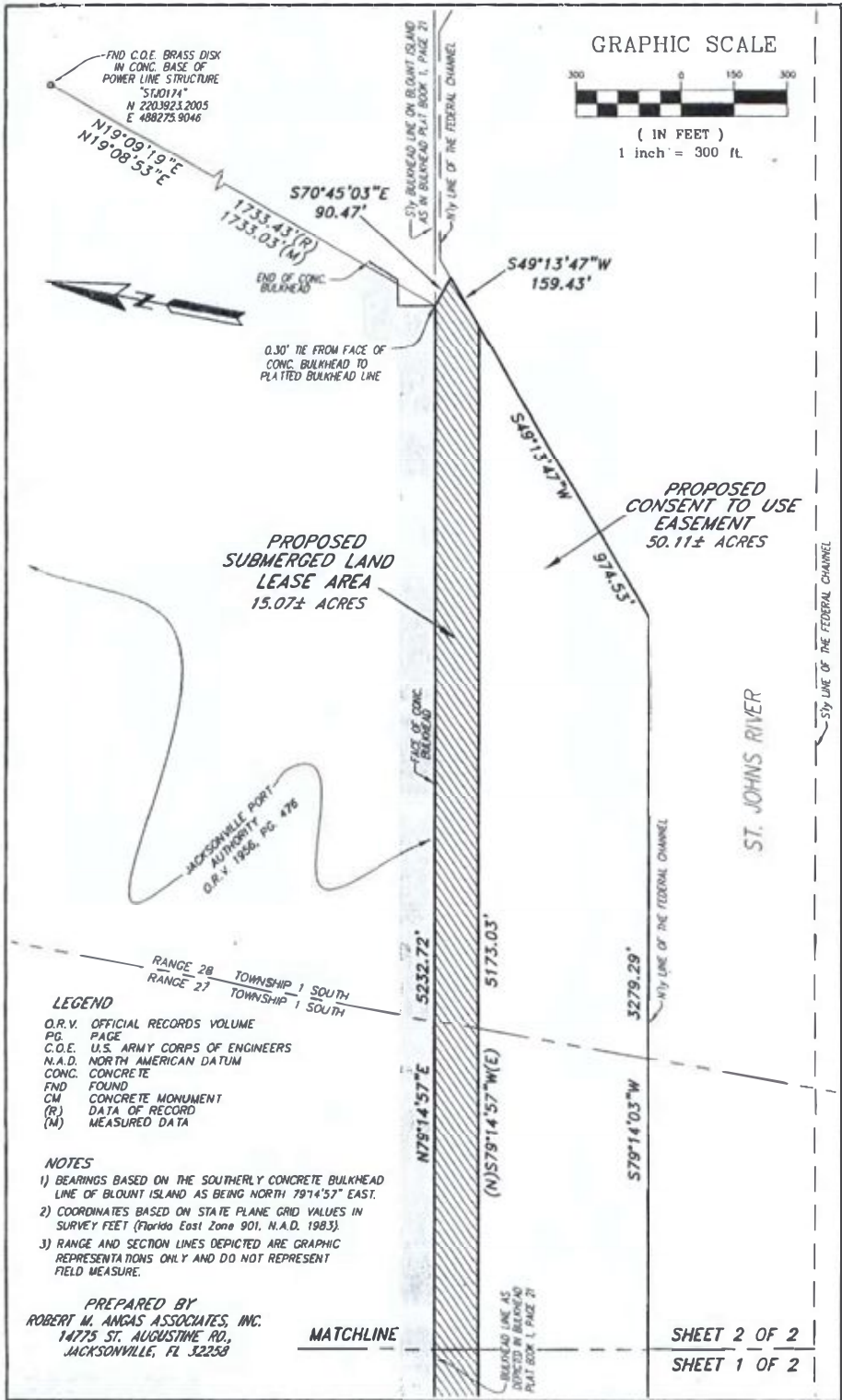
**Robert M. Angas Associates, inc.**  
 LAND SURVEYORS, PLANNERS AND CIVIL ENGINEERS  
 SINCE 1924

14775 St. Augustine Road, Jacksonville, FL. 32258 Tel: (904) 642-8550  
 Certificate of Authorization No.: LB 3624

SCALE: 1" = 300'      DATE: AUGUST 7, 2001

JOSEPH LESLIE REYNOLDS, III  
 PROFESSIONAL SURVEYOR AND MAPPER  
 STATE OF FLORIDA LS No. 5517

CAD FILE: I:\.../Jasper/Harbor/SSL/sketches/bimt-south.dwg



Attachment A  
 Page 11 of 17 Pages  
 Sovereignty Submerged Lands Lease No. 160223992

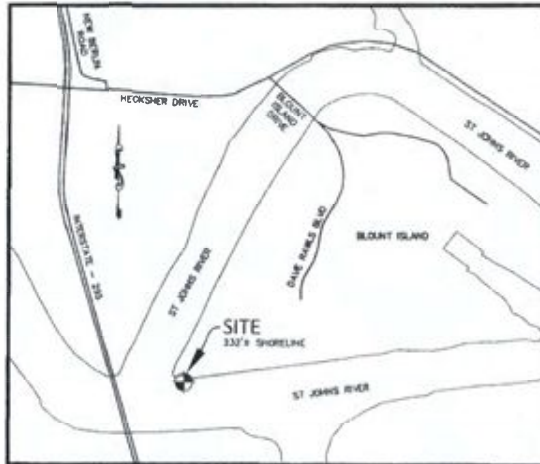
SUBMERGED LAND LEASE

A PART OF THE UNSURVEYED SECTION 25, TOWNSHIP 1 SOUTH, RANGE 27 EAST, DUVAL COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE: COMMENCE AT THE FOUND & RECORDED ARMY CORPS OF ENGINEERS BRASS DISK DESIGNATED "GANTRY W", LOCATED AT THE SOUTHWESTERLY END OF THE CONCRETE WHARF ON THE JAXPORT SIDE OF BLOUNT ISLAND; THENCE SOUTH 05°17'36" WEST, 3.84 FEET TO THE NORTHWEST CORNER OF THE EXISTING SOVEREIGNTY SUBMERGED LAND LEASE #160223992; THENCE SOUTH 10°45'03" EAST, A DISTANCE OF 1.70 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 10°45'03" EAST, ALONG SAID WEST LINE OF SAID SOVEREIGNTY SUBMERGED LAND LEASE, A DISTANCE OF 123.32 FEET; THENCE SOUTH 79°14'57" WEST, DEPARTING SAID WEST LINE OF SAID SOVEREIGNTY SUBMERGED LAND LEASE, A DISTANCE OF 319.85 FEET; THENCE NORTH 10°45'03" WEST, A DISTANCE OF 123.32 FEET; THENCE NORTH 79°14'57" EAST, A DISTANCE OF 319.86 FEET TO THE POINT OF BEGINNING.

CONTAINING 39,445 SQUARE FEET OR 0.91 ACRES MORE OR LESS.

CERTIFIED TO: THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA / CHARLES D. GLOVER / JACKSONVILLE PORT AUTHORITY



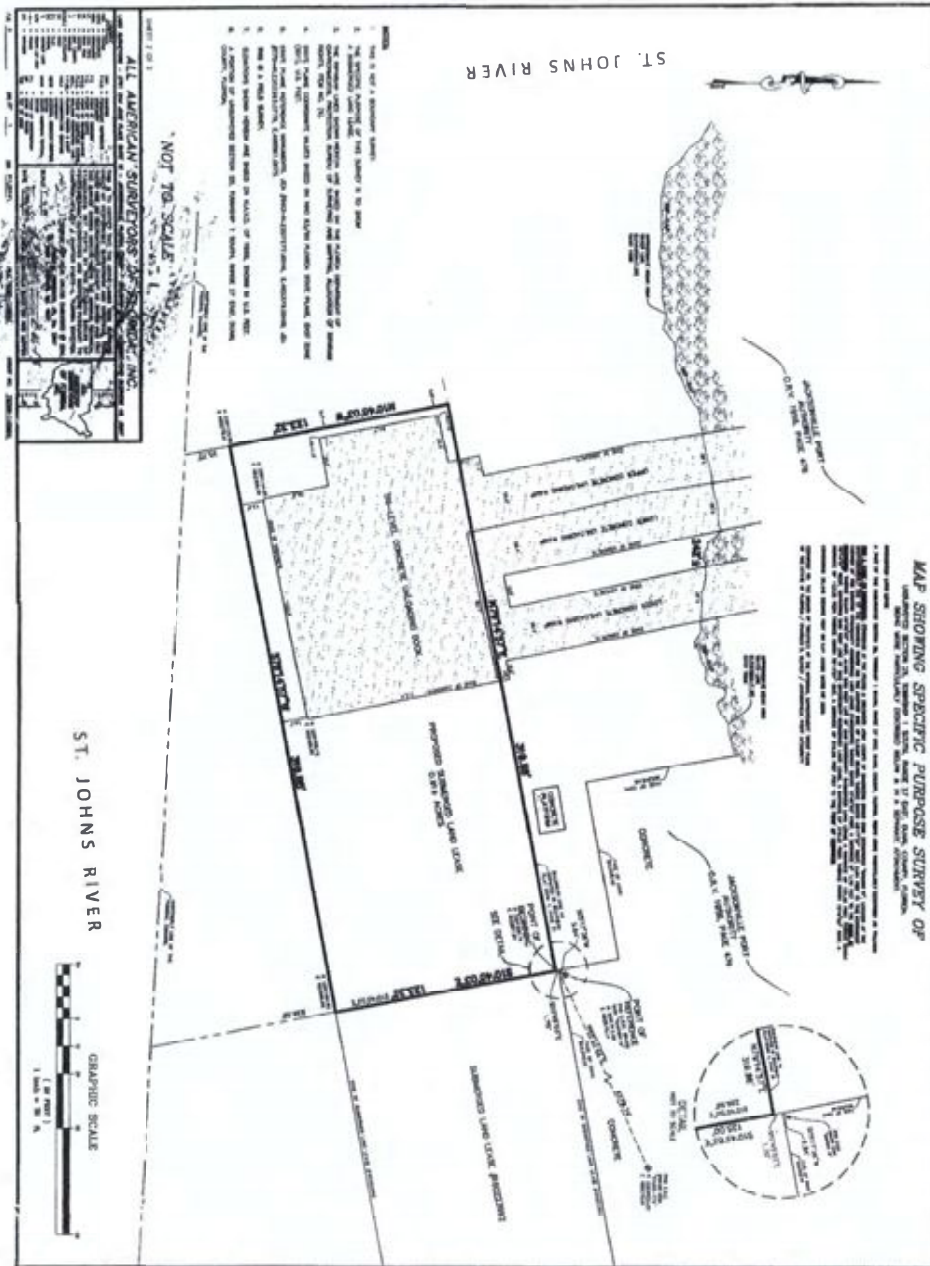
VICINITY MAP  
NOT TO SCALE



**ALL AMERICAN SURVEYORS OF FLORIDA, INC.**

LAND SURVEYORS - 3751 SAN JOSE PLACE, SUITE 15 - JACKSONVILLE, FLORIDA, 32257 - 904/279-0088 - LICENSED LAND BUSINESS NO. 3857

F.B. X \_\_\_\_\_ DR. BY 1 \_\_\_\_\_ DIR. P. 2014\78399-142084 FILE 78399-142084 ORDER NO. 78399-142084



Attachment A  
Page 13 of 17 Pages  
Sovereignty Submerged Lands Lease No. 160223992



NO. 21725

STATE OF FLORIDA

COUNTY OF DUVAL

WHEREAS, the Legislature of the State of Florida did, by Chapter 57-502, Laws of Florida, 1957, grant to Duval County, Florida, all the right, title and interest of the State of Florida in and to the lands hereinafter described, and

WHEREAS, by said chapter the Trustees of the Internal Improvement Fund of the State of Florida were authorized, empowered and directed to make conveyance of the lands hereinafter described to Duval County for the consideration of Two Dollars and Fifty Cents (\$2.50) per acre, and

WHEREAS, by said act of the Legislature the Board of County Commissioners of Duval County is required to utilize the same for industrial sites, the development of port and harbor facilities and for other lawful public purposes to be determined by said Board of County Commissioners, and

WHEREAS, said Board of County Commissioners has appointed certain outstanding citizens of said county as an advisory committee to assist in the development of the project, and

WHEREAS, the Trustees of the Internal Improvement Fund did, on March 25, 1958, approve issuance of a deed to Duval County, subject to the provisions of resolutions adopted by the Board of County Commissioners of Duval County on October 17, 1957, and March 24, 1958, and

WHEREAS, all things have been done and performed by said Board of County Commissioners to entitle Duval County to a conveyance from the Trustees of the Internal Improvement Fund of said lands, as provided by said Chapter 57-502, Laws of Florida, 1957, NOW, THEREFORE,

KNOW ALL MEN BY THESE PRESENTS that we, LeRoy Collins, Governor, J. Edwin Larson, State Treasurer, Ray E. Green, Comptroller, Richard W. Ervin, Attorney General, and Nathan Mayo, Commissioner of Agriculture, as and constituting the Trustees

of the Internal Improvement Fund of the State of Florida, grantors, for and in consideration of the sum of Three Thousand Seven Hundred and Fifty Dollars (\$3,750.00), and other good and valuable considerations, to them in hand paid by Duval County, a political subdivision of the State of Florida, grantee, the receipt whereof is hereby acknowledged, do grant, bargain, sell, convey and quitclaim unto the grantee, its successor or assigns forever, all the right, title and interest of the State of Florida in and to the following described lands, to-wit:

All those certain lands comprising islands, swamp and submerged lands, lying and being in the St. Johns River in Duval County, Florida, commonly known and described as Quarantine Island, Radcliffe Island, Alligator Island, Vicks Island, Long Island and LeBaron Island, including part of Coon Point, together with all lands and swamp lands and bottoms, lying Northerly of the right-of-way of "Cut 42" of the Fulton-Dames Point Cutoff, and bounded on the East, North and West by the Channel of St. Johns River, and being in Township 1 South, Range 27 East, and in Township 1 South, Range 28 East, excepting therefrom that part of said land conveyed by the Trustees of the Internal Improvement Fund as a right-of-way of "Cut 42" of the Fulton-Dames Point Cutoff, Jacksonville Harbor Project of the Corps of Engineers, U. S. Army, more particularly described as follows:

For point of reference, commence at the corner common to Sections 19, 20, 29 and 30, as said sections appear on plat of extension survey in Township 1 South, Range 28 East, of the Tallahassee Meridian, Florida, prepared from survey by the U. S. Bureau of Land Management dated October 5, 1949, copy of said township plat together with field notes being on file in the office of the Department of Agriculture, State of Florida, Tallahassee, Florida.

From the point of reference thus described, run South  $0^{\circ} 09'$  East along the line dividing the aforesaid Sections 29 and 30, 1471.2 feet to a concrete monument set in the Northwesterly right of way line of Fulton-Dames Point Cut-Off, as said right of way line is now established by the U. S. Engineer Office and described in deed recorded in Deed Book 1441, Page 586 of the public records of Duval County, Florida for point of beginning. From the point of beginning thus described, run North  $79^{\circ} 14'$  East along the aforesaid right of way line, 4,403.5 feet, to a permanent reference monument; continue thence North  $79^{\circ} 14'$  East along said right of way line 30 feet, more or less, to where said right of way line intersects the waters of the St. Johns River; run thence up said river first in a Northwesterly; thence in a Westerly and finally in a Southwesterly direction a distance of 21,450 feet, more or less, to where said waters are again intersected by the aforementioned Fulton-Dames Point Cut-Off right of way line, said intersection point bearing South  $79^{\circ} 14'$  West from the point of beginning; run thence North  $79^{\circ} 14'$  East, along said right of way line, a distance

of 20 feet, more or less, to a concrete monument; continue thence North 79° 14' East along said right of way line 8,904.5 feet to the point of beginning, the land thus described and enclosed containing 1530 acres, more or less.

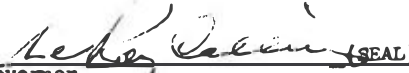

All bearings used in the foregoing description refer to the grid lines of the Florida State Coordinate System and not to true North.

SUBJECT HOWEVER to Temporary Spoil Disposal Easement No. 1155 issued by the Trustees of the Internal Improvement Fund to the United States of America under date of December 30, 1957 and Temporary Spoil Disposal Easement No. 1160 issued by the Trustees of the Internal Improvement Fund to the United States of America February 3, 1958, both Easements terminate October 31, 1960.

The grantee covenants and agrees that it will furnish to the grantors, as soon as the same is available, a feasibility report, now in the process of preparation, of the proposed use of the above described lands in accordance with the terms and provisions of said Chapter 57-502, Laws of Florida, 1957, together with an overall plan for the use and development of said property as authorized by law and will at all times seek the advice, aid and assistance of the Trustees of the Internal Improvement Fund of the State of Florida and other appropriate State agencies and will at all times cooperate with the State and its agencies in the development of the property.

The grantee further covenants and agrees that it will not make any conveyance, lease, or other disposition of the land included in this conveyance until such times as a master plan for development of the lands is approved by the citizen's advisory board or committee and the Board of County Commissioners constituting the Duval Port and Industrial Authority.

IN TESTIMONY WHEREOF, the said Trustees have hereunto subscribed their names and affixed their seal and have caused the seal of THE DEPARTMENT OF AGRICULTURE OF THE STATE OF FLORIDA to be hereunto affixed at the Capitol, in the City of Tallahassee, on this the 7th day of May, A. D. 1958.

  
Governor (SEAL)  
  
Comptroller (SEAL)

(SEAL)  
Trustees I. I. Fund

(SEAL)  
Dept. of Agriculture

*Edwin Lane* (SEAL)  
Treasurer

*Richard W. Egan* (SEAL)  
Attorney General

*Harold H. ...* (SEAL)  
Commissioner of Agriculture

As and Composing the Trustees of  
the Internal Improvement Fund of  
the State of Florida.

Sent to  
J. Henry Eloult  
County Attorney  
1325 Barnett Bank Building  
Jacksonville, Florida  
May 12, 1958



**A RESOLUTION OF THE JACKSONVILLE PORT  
AUTHORITY AUTHORIZING THE REINSTATEMENT OF  
THE CARNIVAL CORPORATION BERTHING AND  
TERMINAL USE AGREEMENT**

**WHEREAS**, the Jacksonville Port Authority (“JAXPORT”) Board of Directors approved a Berthing and Terminal Use Agreement with Carnival Corporation (the “Agreement”) at a Special Board Meeting on April 30, 2018; and

**WHEREAS**, on March 14, 2020, the Centers for Disease Control and Prevention (the “CDC”) issued a thirty-day No Sail Order for all passenger cruise ships and renewed the No Sail Order through October 31, 2020; and

**WHEREAS**, on October 30, 2020, the CDC issued a Framework for Conditional Sailing Order to assist the cruise industry in restarting sailing; and

**WHEREAS**, the CDC’s Conditional Sailing Order expired on January 15, 2022; and

**WHEREAS**, due to a combination of COVID-19 and the CDC’s No Sail Order and Conditional Sailing Order, Carnival Corporation and JAXPORT were prevented and hindered from performing their duties and responsibilities under the Agreement; and

**WHEREAS**, the Carnival Corporation and JAXPORT mutually agreed as of June 2020 that COVID-19 and the CDC orders constituted a Force Majeure Event under the Agreement be, excusing each party from performing their respective duties during the existence of the Force Majeure Event; and

**WHEREAS**, now that the CDC No Sail Order and Conditional Sailing Order have both expired, Carnival Corporation intends to restart cruises at JAXPORT;

**NOW, THEREFORE**, BE IT RESOLVED BY THE JACKSONVILLE PORT AUTHORITY;

Section 1. JAXPORT confirms its desire to reinstate the Agreement with Carnival Corporation; and

Section 2. The Chairwoman of the Board or her authorized representative is herein authorized to execute the Resolution on behalf of JAXPORT;

Section 3. The Chief Executive Officer or his authorized representative is herein specifically authorized to negotiate and enter into and sign documents as may be necessary to reinstate the Agreement.

Section 4. This resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED THIS 14<sup>TH</sup> day of February, 2022.

JACKSONVILLE PORT AUTHORITY

---

J. Palmer Clarkson, Vice Chairman on behalf  
of Wendy Hamilton, Chairwoman

ATTEST:

---

Daniel K. Bean, Treasurer on behalf of  
Bradley S. Talbert, Secretary

BD2018-04-01



## SUBMISSION FOR BOARD APPROVAL

**SUBJECT: Carnival Corporation Berthing and Terminal Use Agreement**

### **BACKGROUND:**

Carnival Corporation began operating at our Dames Point Cruise Terminal in 2004. Carnival historically had year-to-year contracts with Jaxport. The proposed contract is for three years with three separate two-year renewal options. The renewals are at the option of Carnival. There is a Minimum Annual Guarantee (MAG) of \$3,277,255 during the initial three-year term (i.e., \$9.8 million). In Years 4 through 9, the MAG is \$3,037,255. Typically, when there are 78 sailings a year, Carnival has generated in excess of \$5 million in annual revenues which would result in Jaxport receiving approximately \$15 million over the initial term.

In consideration of the proposed contract, Jaxport has committed to providing approximately \$1.5 million in capital improvements to the Cruise Terminal. These improvements include a new overhead passenger ramp, air conditioning in the baggage areas, re-carpeting of the embarkation areas and other improvements. The deadline to complete these improvements is April 1, 2019. If this deadline is not met, Jaxport will provide a revenue credit in the amount of \$1,300.00 per day for each day after the deadline until the improvements are substantially complete.

### **ROI Analysis**

Payback in Years  $\$1.5 \text{ m} / \$5 \text{ m} = 3 \text{ months}$

ROI  $\$5 \text{ m} / \$1.5 \text{ m} = 333\%$

### **RECOMMENDATION:**

Staff recommends that the Board of Directors approve the Berthing and Terminal Use Agreement between Jacksonville Port Authority and Carnival Corporation and authorize the Chief Executive Officer, or his designee, to execute the Agreement.

### **ATTACHMENTS:**

1. Berthing and Terminal Use Agreement


BD2018-04-01



## SUBMISSION FOR BOARD APPROVAL

**RECOMMENDED FOR APPROVAL:**

Frederick P. Wong Jr.  
Chief Operations Officer

 4/24/18  
Signature and Date

**SUBMITTED FOR APPROVAL:**

Eric Green  
Chief Executive Officer

 4/24/18  
Signature and Date

**BOARD APPROVAL:**

April 30, 2018  
Meeting Date

  
Rebecca Dicks Recording Secretary

**ATTEST:**

  
Jamie Shelton, Secretary

  
Edward J. Fleming Jr., Chairman

**BD2022-02-02**



**SUBMISSION  
FOR  
BOARD APPROVAL**

**SUBJECT: Termination of Hedge Transaction Associated with  
Special Purpose Bonds Series 2007**

**COST:** \$4,500,000 (estimated)

**BUDGETED:** No

**BACKGROUND:**

In February 2007, JAXPORT entered into the First Amendment to the Operating and Lease Agreement with MITSUI O.S.K. Lines, Ltd (MOL TraPac Jacksonville, Inc.). As a part of the financial arrangements detailed in the Agreement, \$100,000,000 of Special Purpose bonds were issued to assist in funding the build out of the TraPac terminal at Dames Point. These bonds were secured by a Letter of Credit provided by Sumitomo Bank. MOL entered into a Hedge Transaction to limit interest expense on the \$100,000,000 bonds. In addition, as a part of the negotiations with MOL, JAXPORT agreed to pay the difference between a 2% per annum interest cost and the interest rate provided by the Hedge Transaction (3.9% fixed), plus other related credit fees. JAXPORT has paid this difference on an annual basis by a reduction in Throughput Fees.

JAXPORT has credited TraPac Jacksonville, Inc. in the range of \$1.2-\$2.4 million per year as a result of this provision.

MOL/TraPac Jacksonville Inc. has notified JAXPORT of its intention to call for early redemption of the Special Purpose bonds and termination of the Hedge Transaction. Section 4.2 (a) of the 2<sup>nd</sup> amendment of the lease agreement states "If the Hedge Transaction is terminated for any reason other than at the request of the Authority, the Authority will pay 50% of the termination payment."

JAXPORT has engaged PFM financial consultants to negotiate the termination of the Hedge Transaction. PFM estimates JAXPORT's 50% share of the termination fee is \$4.5 million.

If the bonds remained outstanding until the original maturity date of 2032, JAXPORT's payments associated with the Hedge and related 2% rate cap would be \$8.1 million.

**BD2022-02-02**



## SUBMISSION FOR BOARD APPROVAL

After review and analysis, management recommends the Board approve the termination of the Hedge Transaction and authorize the Chief Executive Officer or his designee to execute documents required to complete this transaction.

**RECOMMENDED FOR APPROVAL:**

Beth McCague  
Chief Financial Officer

Signature: Beth McCague  
Beth McCague (Feb 11, 2022 08:57 EST)

Email: Beth.McCague@jaxport.com

\_\_\_\_\_  
Signature and Date

**SUBMITTED FOR APPROVAL:**

Eric Green, CEO

Signature: Eric B. Green  
Eric B. Green (Feb 11, 2022 08:59 EST)

Email: eric.green@jaxport.com

\_\_\_\_\_  
Signature and Date

**BOARD APPROVAL:**

Feb. 14, 2022  
Meeting Date

\_\_\_\_\_  
Rebecca Dicks/Recording Secretary

**ATTEST:**

\_\_\_\_\_  
Daniel K. Bean, Treasurer  
on behalf of Bradley S. Talbert,  
Secretary

\_\_\_\_\_  
J. Palmer Clarkson, Vice-Chairman  
on behalf of Wendy O. Hamilton, Chairwoman



## SUBMISSION FOR BOARD APPROVAL

**SUBJECT:** Ceres/TraPac Lease Agreement

**COST:** N/A

**BUDGETED:** N/A

**BACKGROUND:** Mitsui O.S.K. Lines, Ltd. (MOL) and JAXPORT entered into a long-term (30 years) Operating and Lease Agreement in 2005, which included development of 158 acres at Dames Point Marine Terminal. Over the course of the Agreement, MOL assigned its rights to TraPac Jacksonville, LLC, while retaining exclusive ownership.

Ceres Terminals has agreed to acquire TraPac Jacksonville, LLC from MOL under a separate Purchase and Sale Agreement to be effective March 1, 2022.

**STATUS:** On February 10, 2022, MOL and TraPac Jacksonville, LLC requested that JAXPORT consent to the transfer of the controlling interest in TraPac Jacksonville, LLC to Ceres Terminals.

Upon the closing of the transaction between MOL and Ceres Terminals, Ceres Terminals would like to enter into a new Operating and Lease Agreement for the 158 acres at Dames Point Marine Terminal. This would be a long-term (20 year) lease agreement.

Key Terms: Minimum Annual Guarantee (Rent) payment as follows:

Year 1	\$700,000
Year 2	\$700,000
Year 3	\$1,400,000
Year 4	\$2,000,000 + 10% of Adjusted EBITDA
Year 5	\$2,200,000 + 10% of Adjusted EBITDA
Year 6-10	\$2,200,000 + Annual CPI + 20% of Adjusted EBITDA
Year 11-20	\$2,200,000 + Annual CPI + 25% of Adjusted EBITDA

**RECOMMENDATION:** Staff recommends that the Board of Directors:

1. Authorize the Chief Executive Officer, or his designee, to sign the Letter of Consent for the transfer of controlling interest in TraPac Jacksonville, LLC to Ceres.

**BD2022-02-03**



## SUBMISSION FOR BOARD APPROVAL

2. Authorize the Chief Executive Office, or his designee, to sign a Surrender and Termination of Lease Agreement between Jacksonville Port Authority and TraPac Jacksonville, LLC, under the exclusive ownership of MOL upon final closing.
3. Approve the new Operating and Lease Agreement between Jacksonville Port Authority and TraPac Jacksonville, LLC, under the exclusive ownership of Ceres Terminals.
4. Authorize the Chief Executive Officer, or his designee, to execute the new Operating and Lease Agreement between Jacksonville Port Authority and TraPac Jacksonville, LLC, under the exclusive ownership of Ceres Terminals.

- ATTACHMENTS:**
1. MOL Letter Requesting Consent to Transfer Controlling Interest
  2. Operating and Lease Agreement

<p><b><u>RECOMMENDED FOR APPROVAL:</u></b></p> <p>Nick Primrose Chief, Regulatory Compliance</p>	<p><b>Signature:</b> <u>Nicholas Primrose</u> <small>Nicholas Primrose (Feb 11, 2022 15:40 EST)</small></p> <p><b>Email:</b> nicholas.primrose@jaxport.com</p> <hr/> <p>Signature and Date</p>
<p><b><u>SUBMITTED FOR APPROVAL:</u></b></p> <p>Eric Green Chief Executive Officer</p>	<p><b>Signature:</b> <u>Eric B. Green</u> <small>Eric B. Green (Feb 11, 2022 15:43 EST)</small></p> <p><b>Email:</b> eric.green@jaxport.com</p> <hr/> <p>Signature and Date</p>
<p><b><u>BOARD APPROVAL:</u></b></p> <p><u>February 14, 2021</u> Meeting Date</p>	<hr/> <p>Rebecca Dicks/Recording Secretary</p>
<p><b><u>ATTEST:</u></b></p>	
<hr/> <p>Daniel K. Bean , Treasurer on behalf of Bradley S. Talbert, Secretary</p>	<hr/> <p>J. Palmer Clarkson, Vice Chair on behalf of Wendy O. Hamilton, Chair</p>



**OPERATING AND LEASE AGREEMENT**

**between**

**JACKSONVILLE PORT AUTHORITY**

**and**

**TRAPAC JACKSONVILLE, LLC**

**Dated: March 1, 2022**

DRAFT

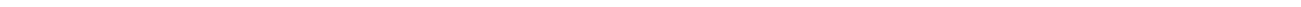


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THIS OPERATING AND LEASE AGREEMENT (this "Agreement") is made and entered into as of this 1st day of March, 2022 (the "Effective Date"), by and among the JACKSONVILLE PORT AUTHORITY, a body politic and corporate of the State of Florida (the "Authority"), and TRAPAC JACKSONVILLE, LLC, a Delaware limited liability company (together with any successor thereto, the "Lessee").

W I T N E S S E T H:

WHEREAS, the Authority is the owner of certain vessel berthing, cargo handling and storage facilities known as the Dames Point Marine Terminal (the "Terminal Facilities") located in Jacksonville, Florida; and

WHEREAS, the Lessee desires to lease a certain portion of the Terminal Facilities and conduct business operations thereon; and

WHEREAS, the Authority is willing to lease that portion of its Terminal Facilities to the Lessee subject to the terms and conditions contained herein;

NOW, THEREFORE, for and in consideration of the mutual covenants and benefits herein contained, the Authority and the Lessee do hereby mutually undertake and agree, each for itself and its successors and assigns, as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Defined Terms.

In addition to terms defined elsewhere in this Agreement, the following words and terms as used in this Agreement and the preamble and recitals hereto shall have the following meanings unless the context or use clearly indicates another or different meaning or intent.

"Access Routes" has the meaning set forth in Section 6.1.

"Act" means, collectively, Chapter 2004-465, Laws of Florida, as amended and supplemented, Chapter 159, Part II, Florida Statutes, as amended, and other applicable provisions of law.

"Act of Bankruptcy" means any of the following events:

(a) the Lessee (or any other Person obligated, as guarantor or otherwise, to pay Rent hereunder) shall (i) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee, liquidator or the like of the Lessee (or such other Person) or of all or any substantial part of their respective property, (ii) commence a voluntary case under the Bankruptcy Code, or (3) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts; or

(b) a proceeding or case shall be commenced and not dismissed within ninety (90) days thereafter, without the application or consent of the Lessee (or any other Person obligated, as guarantor or otherwise, to pay Rent hereunder) in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts, of the Lessee (or any such

other Person), (ii) the appointment of a trustee, receiver, custodian, liquidator or the like of the Lessee (or any such other Person) or of all or any substantial part of its property, or (iii) similar relief in respect of the Lessee (or any such other Person) under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts.

“Additional Rent” means the additional payments to be made in accordance with Section 5.2 hereof on an annual basis above the Minimum Annual Guarantee as described in Exhibit B hereto.

“Adjusted EBITDA” means, for any applicable Contract Year, (a) the Net Operating Income of the Lessee for such Contract Year, excluding the cumulative effect of any change in accounting principles of any change in the application thereof, (b) plus, to the extent deducted in determining Net Operating Income, (i) the Debt Interest of the Lessee for such Contract Year, determined in accordance with GAAP, (ii) the income tax expense of the Lessee for such Contract Year, determined in accordance with GAAP, together with all tax distributions made during such Contract Year (if any), (iii) the depreciation and amortization of the Lessee for such period, determined in accordance with GAAP, and (iv) any other non-cash charges of the Lessee for such Contract Year, minus (c) the MAG for such Contract Year.

“Applicable Law” shall include, but shall not be limited to, CERCLA, RCRA, the Federal Water Pollution Control Act, 33 U.S.C. §§1251 et seq., the Clean Air Act, 42 U.S.C. §§7401 et. seq., Chapters 376 and 403, Fla. Stat., and Chapters 362 and 365, Jacksonville Ordinance Code and the regulations relating thereto, and any other local, state and/or federal laws or regulations whether currently in existence or hereafter enacted that govern (a) the existence, cleanup and/or remedy of contamination on property by a Hazardous Substance; (b) the protection of the environment from spilled, deposited or otherwise emplaced contamination by a Hazardous Substance; (c) the control of Hazardous Substances; or (d) the use, generation, transport, removal or recovery of Hazardous Substances.

“Approval Criteria” has the meaning set forth in Section 16.5.

“Authority” has the meaning set forth in the preamble.

“Authority Default” has the meaning set forth in Section 16.3.

“Authority Invitees” has the meaning set forth in Section 6.2(b).

“Authority Parties” has the meaning set forth in Section 10.3.

“Bankruptcy Code” means Title 11 of the United States Code, as amended, and any successor statute or statutes having substantially the same function.

“Berthing Area” has the meaning set forth in Section 6.2(a).

“Buyer” has the meaning set forth in Section 16.5.

“Capital Projects List” has the meaning set forth in Section 13.1.

“Ceres Terminals” means Ceres Terminal Holdings LLC, a Delaware limited liability company.

“City” means the City of Jacksonville, a municipality duly created by and validly existing pursuant to Chapter 92-341, Laws of Florida, as amended.



“Code” means the Internal Revenue Code of 1986, as amended, and the rulings and regulations (including temporary and proposed regulations) promulgated thereunder or under the Internal Revenue Code of 1954, as amended.

“Condemnation” has the meaning set forth in Section 23.13(a); and “Condemned” and “Condemning” each have a correlative meaning.

“Contract Year” means the twelve (12) month period commencing on the Effective Date and each twelve (12) month period thereafter during the term of this Agreement.

“Controlling Interest” means (a) more than fifty percent (50%) of the ownership interest in an entity, or (b) a non-majority ownership interest in an entity, if Lessee actually directs the business and affairs of such entity without the requirement of consent of any other party.

“Damages” has the meaning set forth in Section 10.3.

“Debt Interest” shall mean, for any Contract Year, the total interest expense of the Lessee for such period (including all premium payments, fees, commissions, discounts and other fees and charges (e.g., fees with respect to letters of credit) and any portion of rent expense with respect to such period under capital leases, in each case to the extent treated as interest in accordance with GAAP, adjusted to exclude (to the extent the same would otherwise be included in the calculation above) the amortization of any deferred financing costs for such period determined in accordance with GAAP.

“Effective Date” has the meaning set forth in the preamble.

“Environmental Assessment Report” means the Phase I Environmental Assessment Report or any subsequent Phase II Environmental Assessment Report disclose the existence of any Hazardous Substances at, upon, under or within the Lan or any contiguous real estate.

“Force Majeure” has the meaning set forth in Section 23.15.

“GAAP” shall mean generally accepted accounting principles in the United States as in effect from time to time.

“Hazardous Substance” means any substance which at any time shall be listed as “hazardous” or “toxic” in the regulations implementing the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. §§9601 et. seq., the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§6901 et seq., Chapters 376 or 403, Fla. Stat., Chapters 362 or 365, Jacksonville Ordinance Code or which has been or shall be determined at any time by any agency or court to be a hazardous, dangerous or toxic substance regulated under Applicable Law, including petroleum. “Hazardous Substance” shall also include source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. §§3011, et. Seq., as amended).

“Hazardous Substance Release” shall be interpreted in the broadest sense to mean the spilling, discharge, deposit, injection, dumping, emitting, releasing, leaking or placing of any Hazardous Substance into the air or into or upon any land or waters, except as authorized by a then current and valid permit issued under Applicable Laws and regulations.

“Improvements” means all of those buildings, improvements, structures and related facilities, including accessions thereto and replacements thereof, located on the Land.

“Insurance Trustee” has the meaning set forth in Section 12(a)(ii).

“Insurer Criteria” has the meaning set forth in Section 11.1(a).

“Land” means the land comprising the site of the Premises, including (a) approximately one hundred thirty-one (131) acres of land upon which the Improvements are located, and (b) approximately twenty-six (26) acres of land comprising single user stormwater retention ponds, and (c) approximately 3.12 acres of land shown as “TraPac Boulevard” on a plan of land entitled “Map of a Portion of Section 23, Township 1 South, Range 27 East, Duval County, Florida,” as further shown on Exhibit A hereto.

“Lessee” has the meaning set forth in the preamble.

“Lessee Assignee” has the meaning set forth in Article XIV(b).

“Lessee Default” has the meaning set forth in Section 16.1.

“Lessee Indemnities” has the meaning set forth in Section 10.3.

“Minimum Annual Guarantee” or “MAG” means the minimum annual guaranteed amount to be paid as rent by the Lessee for each Contract Year during the term of this Agreement as more particularly set forth in Exhibit B hereto.

“Net Operating Income” shall mean, for any Contract Year, the net income of the Lessee (excluding extraordinary gains and extraordinary losses) from the Terminal Facilities for such Contract Year in accordance with GAAP.

“Person” means any natural person, firm, partnership, association, corporation, limited liability company or public body.

“Premises” means certain of the Authority’s property consisting of the Land and the Improvements to be acquired, constructed and installed thereon, at the Terminal Facilities, as more particularly described in Exhibit A hereto.

“Rent” means the Minimum Annual Guarantee plus the Additional Rent due annually as specifically set forth in Exhibit B hereto.

“Restoration Cost” has the meaning set forth in Section 12.3(a)(i).

“Retention Ponds” has the meaning set forth in Section 12.4.

“Security System” has the meaning set forth in Section 7(b) of Exhibit E.

“Term” has the meaning set forth in Section 3.1(a).

“Terminal Facilities” has the meaning set forth in the Recitals.

Section 1.2. Rules of Construction.

Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Agreement:

- (a) Words importing the singular number shall include the plural number and vice versa.

(b) The table of contents, captions, and headings herein are for convenience of reference only and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

(c) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders, and words of the neuter gender shall be deemed and construed to include correlative words of the masculine and feminine genders.

(d) All references in this Agreement to particular Articles or Sections are references to Articles or Sections of this Agreement, unless otherwise indicated.

## ARTICLE II

### LEASEHOLD PREMISES

#### Section 2.1. Description of Premises.

Subject to the provisions and conditions hereinafter specified, the Authority agrees to lease the Premises to the Lessee during the Term of this Agreement for the uses identified herein.

#### Section 2.2. Purpose.

The Lessee is authorized to use the Premises for all activity relating to (a) the docking and mooring of vessels and the handling, receipt, assembly, distribution, moving, loading, unloading and storage of cargo carried by vessels engaged in the transportation of international and domestic waterborne cargoes and (b) related railcar and truck activity and transport of such cargo. In addition, the Lessee may perform third party terminal services on the Premises. Lessee's authorized use shall include general office functions and equipment maintenance activities necessary to support this activity. The Lessee agrees to continuously use the Premises during the Term of this Agreement for the authorized purposes specified in this paragraph, to the extent not inhibited by damage or destruction to the Premises, eminent domain or force majeure pursuant to Sections 13.2, 24.13 and 24.15 herein, respectively. The Lessee shall be prohibited from using any portion of the Premises for any purpose not specified in this Agreement without having first obtained the Authority's written permission to do so. No rights granted to the Lessee under this Agreement may be exercised in an area of the Terminal Facilities leased to another tenant except with the consent of such tenant and the Authority and then those rights may only be exercised subject to the obligations of that tenant under its Agreement with the Authority.

#### Section 2.3. Representation.

It is agreed and understood that neither the Authority nor its members, officers, employees or agents have made any representations or promises whatsoever with respect to the Premises, the Improvements, the Terminal Facilities, or the services to be provided by the Authority in connection with their use, except as expressly set forth herein.

## ARTICLE III

### TERM OF AGREEMENT

#### Section 3.1. Term.

(a) Subject to the limitation set forth in paragraph (c) of this Section 3.1, the term of this Agreement shall commence upon the Effective Date and continue for a period of twenty (20) years thereafter (the “Term”). Whenever used in this Agreement, the “Term” shall also mean and include any period of time that the Lessee may hold over on the Premises.

(b) The Authority and the Lessee agree that either party may request that negotiations be commenced for the extension or renewal of this Agreement at any time within twenty-four (24) months prior to the date this Agreement is scheduled to terminate pursuant to paragraph (a) above but no less than twelve (12) months immediately preceding such termination date; provided, however, there shall be no obligation for either party to reach agreement concerning the extension or renewal of this Agreement through such negotiations.

#### Section 3.2. Hold Over Period.

In the event this Agreement is terminated and the Lessee continues to remain in possession of or use or occupy the Premises, such continuation of possession or use shall not renew the Term of this Agreement but shall establish only a tenancy at sufferance between the parties hereto. Except as provided in this Section, the Lessee’s use of the Premises during a tenancy at sufferance shall continue to be governed by all of the provisions and conditions of this Agreement that were in effect immediately prior to termination. The Authority shall have the right at any time during such tenancy at sufferance to invoke any remedy provided it under Florida Law, including but not limited to terminating such tenancy upon thirty (30) days prior written notice to the Lessee. The Authority specifically reserves the right to amend the amount of all fees and charges stipulated in Article VII hereof at any time that a tenancy at sufferance is in effect (including but not limited to charging monthly rental fees at double the tariff rental rate established for “improved overflow land” and any other fees at the then current tariff rates).

## ARTICLE IV

### DREDGING

#### Section 4.1. Dredging.

The Authority hereby agrees to provide for maintenance dredging for the Berthing Area. The Authority shall maintain the water depth at the Berthing Area at the same depth as is maintained by the United States Army Corps of Engineers (“USACE”) for the Federal Channel of the St. Johns River located immediately adjacent to the Berthing Area, which depth shall be at least 40 feet. In the event that the USACE determines it feasible to increase the depth of the Federal Channel from 40 to 47 feet as a result of the General Reevaluation Report for 47’ Channel (Project G2002-01), Authority agrees that it shall maintain the Berthing Area at that same depth. The Lessee shall reimburse the Authority for the costs of the maintenance dredging at the Berthing Area on each such occasion such maintenance dredging occurs. Additionally, the Lessee shall reimburse the Authority for any applicable disposal fees that may be incurred for disposal of dredged material at a non-Authority controlled Dredge Material Management Area (DMMA), solely to the extent the conditions specified in the last paragraph of this Section 4.1 are met. The Authority shall submit an invoice for said dredging, including testing and permit costs and disposal fees incurred by the Authority, if applicable, and an administrative fee equal to one percent (1.0%) of the dredge

event cost, to the Lessee within thirty (30) days following completion of the dredging and the Lessee shall pay such invoice promptly upon receipt.

It is acknowledged that any such dredging will require the completion of environmental impact procedures and permits and approvals from responsible agencies. The obligations of the Authority under this Section 4.1 shall be subject to the Authority's completion of required environmental impact procedures and securing all necessary approvals and permits to perform the dredging and dispose of dredged materials and the Authority shall use reasonable efforts to obtain such approvals and permits, but failure to secure said approvals and permits after exercising reasonable efforts shall not constitute a default under this Agreement. The responsibility for the cost of maintenance dredging shall be as hereinabove set forth in this Section 4.1.

If annual disposal exceeds one hundred and twenty-five percent (125%) of 275,000 cubic yards (the historic high) (i.e., 343,750), Lessee must pay all disposal fees, including the Authority's Tariff 31-110 at the Governmental rate (as in effect as of the Effective Date), for any excess volume of cubic yards. For the avoidance of doubt, the Authority shall be responsible for all disposal fees for any annual disposal up to 343,750 cubic yards. The Authority intends on utilizing Authority controlled DMMA's for disposal of dredged material. However, in the event of a failure of or lack of capacity to sufficiently accommodate dredged material for the Authority and the Lessee at an Authority controlled DMMA, the Authority shall have the right to utilize a non-Authority controlled DMMA; provided, however, that the Lessee shall not have any obligation to reimburse the Authority for any applicable disposal fees that may be incurred for disposal of dredged material at a non-Authority controlled DMMA except in such circumstance and if all dredged material from all terminal facilities of the Authority in the Port of Jacksonville is being disposed of by the Authority at such non-Authority controlled DMMA. The Authority will provide the Lessee written notice, as soon as practicable, if dredged material will be disposed in a non-Authority controlled DMMA.

## ARTICLE V

### RENT

#### Section 5.1. Minimum Annual Guaranty.

As consideration to the Authority for Lessee's primary use of the Premises and for the benefits specified herein, Lessee shall compensate the Authority during the term of this Agreement in advance without previous demand on the first business day of each month an amount equal to 1/12 of the annual MAG amount becoming due and payable in such Contract Year commencing on the first business day of the month immediately succeeding the month in which the Effective Date occurs. A late fee assessment of two percent (2%) of the amount of the MAG amount then due and payable for such month may be imposed on the MAG amount not received by the Authority within ten (10) days after the due date and shall become additional rent due and payable on the eleventh (11<sup>th</sup>) calendar day of the month.

#### Section 5.2. Additional Rent.

Following the end of each Contract Year, beginning with the fourth Contract Year, the Lessee shall provide to the Authority (promptly after the same becomes available) an annual reviewed income statement for purposes of review and determination of Additional Rent. Lessee shall provide to the Authority documentation reasonably necessary to support the Lessee's calculation of Adjusted EBITDA. Additional Rent shall be due and payable from the Lessee to the Authority within 150 days following the end of each Contract Year (beginning with the fourth Contract Year).

## ARTICLE VI

### APPURTENANT RIGHTS

#### Section 6.1. Access to Premises.

The Lessee shall gain access to the Premises directly from New Berlin Road which is a public right of way lying immediately adjacent to the Premises. Subject to the terms and conditions of this Agreement, the Lessee, its employees, licensees, invitees, agents and contractors, and its or their suppliers of materials and/or services shall have an unimpeded and unobstructed right of ingress to and egress from the Premises over such roadway in addition to any other access routes hereafter provided by the Authority for that purpose (“Access Routes”), subject to the Authority’s control. Absent emergency circumstances that preclude such ingress and egress, the Lessee shall have twenty-four (24) hours, seven (7) days per week use of the Access Routes for the purpose of accessing the Premises. No vehicle, piece of equipment or machinery shall be left in an inoperable condition or stored in the Access Routes by the Lessee or its agents, contractors, customers or suppliers. At any time, the Authority may close, relocate, reconstruct or modify any or all means of access to the Premises, either temporarily or permanently; provided that the Authority will provide a suitable alternative means of access for the Lessee. The suitability of such alternative means of access shall be determined by the Authority in its reasonable discretion but to the extent feasible shall be provided in a manner so as to not unreasonably interfere with or delay Lessee’s business operations.

#### Section 6.2. Berthing Rights.

(a) Berths 16 and 17 (the “Berthing Area”) located immediately adjacent to the Premises shall be dedicated for exclusive use by Lessee as stated in Section 2.2 above, and Lessee shall have full control and use of the Berthing Area subject only to the uses as specifically set forth in paragraph (b) of this Section.

(b) During periods of non-use or idle dockage by the Lessee, third parties who are invitees of the Authority (“Authority Invitees”) may use the Berthing Area; provided that such use shall not unreasonably interfere with or unreasonably delay Lessee’s business operations and subject to the requirements set forth in paragraph (c) of this Section. Further, the Authority shall have priority use of the Berthing Area when necessary to perform maintenance dredging or to perform other necessary repairs and/or maintenance pursuant to Section 4.1 above; provided that such work shall be scheduled so as to minimize interference with Lessee’s business operations on the Premises as much as possible.

(c) In the event that an Authority Invitee desires to use the Berthing Area pursuant to Section 6.2(b) above, then the Lessee and Authority shall require that such Authority Invitee (i) provide evidence of insurance to the Lessee and the Authority in the type and amount of coverage set forth in Exhibit C attached hereto; (ii) pay such fees as set forth in the Authority’s tariff schedule then in effect (and in such event, the Authority and Lessee shall share such fees on an equal basis); and (iii) execute a use agreement reasonably acceptable to Lessee in favor of Authority and Lessee, and which agreement should contain, at a minimum, the provisions set forth in Exhibit E.

Section 6.3. Common Use.

Subject to the terms and conditions of this Agreement, the Lessee is hereby also granted the right and privilege to use all wharf and dock areas of the Terminal Facilities other than the portion constituting Premises together with any existing and all future improvements thereto affording common access to all other tenants of the Authority. At all times the Lessee's use of such wharf and dock areas, and other improvements affording access shall, without exception, be in common with other users of the Terminal Facilities, as authorized or permitted by the Authority. Such common use of these facilities shall be subject to and utilized in accordance with all applicable federal, state and local laws and ordinances and such reasonable rules and regulations as may be adopted by the Authority for the regulation and control of its Terminal Facilities. Nothing contained in this Agreement shall prohibit the Authority from barring any person or entity from the Terminal Facilities that fails to comply with such laws, ordinances and rules and regulations. Except as specifically provided for in this Article VI, no other appurtenant rights are granted the Lessee under this Agreement.

## ARTICLE VII

### REPORTING OF THROUGHPUT INFORMATION

Section 7.1. Reporting of Throughput Information.

To the extent the Lessee intends to move breakbulk or bulk products, it must be approved by the Authority at least seven (7) days prior to arrival at the Premises. Within seven (7) days after a vessel calling the Premises completes work, the Lessee shall provide the Authority with an activity report citing the number of containers, loaded or empty, or the number, weight and type of any non-containerized cargo that were received from or delivered to the Premises from that vessel. These documents shall be signed by an authorized representative of the Lessee certifying the accuracy of the container and cargo count. In addition, the Lessee shall provide to the Authority a duplicate of the vessel manifest as reported to U. S. Customs for that vessel. These documents shall then be utilized for verifying the cargo activity at the terminal.

Section 7.2. Books of Account and Auditing.

(a) The Lessee shall maintain true and complete records and accounts of all container and other cargo handled by it pursuant to its operations on the Premises.

(b) The Authority shall have the right at any time to audit all of the records of the Lessee relating to all of its business transactions pursuant to this Agreement. Upon request, the Lessee agrees to provide the Authority access (in a location in the City) during reasonable business hours in order to inspect the Lessee's books and records, and the Lessee agrees that throughout the entire Term of this Agreement that it will keep and preserve all documented evidence of cargo handled by the Lessee and associated financial records for at least five years subsequent to the date that the cargo was handled on the Premises. The Authority's right to audit Lessee's books and records hereunder shall be limited to one audit per calendar year, and the Authority shall not have the right to audit Lessee's books and records more than once for any one fiscal year; provided, however, no such limitation shall apply during a Lessee Default pursuant to Section 16.1 hereof.

(c) Should the annual reconciliation or any audit reveal that the Lessee has understated the financial obligations as outlined in Exhibit B, then Lessee shall remit full payment within thirty (30) days of written demand for the same.

Section 7.3. Payment of Fees.

Lessee's obligation to pay any authorized fees and charges owed to Authority assessed in connection with this Agreement is a separate and independent covenant and agreement, and the breach of any provision of this Agreement by Authority shall not discharge or relieve Lessee from Lessee's obligation to timely pay such amounts due.

ARTICLE VIII

UTILITIES AND OTHER SERVICES

Section 8.1. Utility Charges.

The Lessee shall be responsible for contracting for all utility services necessary for its operation on the Premises and shall be responsible for promptly paying those persons or entities furnishing or providing it with these services. Such utility services may include, but are not necessarily limited to, water and waste water service, electrical service, gas service, fuel, janitorial service, trash removal service, data communication service and telephone service.

Section 8.2. Utility Lines and Easements.

Subject to the giving of reasonable written notice to the Lessee, the Authority reserves to itself and others the right to locate, construct, install and maintain sewers and utilities upon and across the Premises at locations which do not unreasonably interfere with Lessee's use of the Premises. The Authority also reserves to itself and others the right to maintain existing utilities and other facilities.

ARTICLE IX

TAXES AND ASSESSMENTS

Unless exempt, the Lessee agrees that it shall pay on or before the last day on which payment may be made without penalty or interest, all lawful taxes, assessments and user fees, however named, specifically including any ad valorem tax, that may become a lien upon or that may be levied by the State of Florida, Duval County, the City, any district or other governmental body upon the Premises because of the Lessee's occupancy or use thereof or upon any taxable interest of the Lessee acquired in this Agreement, or any taxable possessory right that the Lessee may have in or to the Premises occurring as a result of its occupancy thereof. The Lessee recognizes and agrees that the Premises are exempt from ad valorem taxes and other taxes unless leased by the Authority to an entity like the Lessee that is subject to such taxation. In the event of any change in Florida law relating to the taxation of property, the Lessee agrees that it shall pay the entire amount of any taxes imposed on the Premises levied as a result of such change if based on this Agreement or Lessee's use or occupancy of the Premises commencing with the first tax year such taxes are due and thereafter annually throughout the entire Term of this Agreement. None of the provisions, covenants or conditions of this Agreement shall constitute or be construed to be a release or waiver on the part of any lawfully empowered taxing authority of its right or obligation to assess, levy and collect from the Lessee any license, personal, intangible, occupation, ad valorem or other tax which shall be lawfully imposed on the business or property of the Lessee, or upon the Premises. The Authority agrees that it will provide any information currently in its possession relating to the valuation of the Premises for tax assessment purposes if requested to do so by the Lessee. Lessee shall be responsible for any Florida sales taxes imposed on Lessee by Florida law.



## ARTICLE X

### INDEMNIFICATION

#### Section 10.1. Indemnification/Hold Harmless.

Except to the extent of (a) the use or occupation of the Premises by the Authority or its agents or employees, or the negligence or willful misconduct of the Authority or its agents or employees, or as set forth in Section 10.3 (all of the foregoing being subject, however, to the provisions and limitations of Section 768.28, Florida Statutes, and applicable law), or (b) failure by the Authority to perform its maintenance obligations hereunder, the Lessee hereby agrees that it shall indemnify, defend and hold the Authority harmless from and against any and all claims, actions, demands, losses, penalties, costs, expenses, including attorneys' fees and expenses, liabilities, and damages of whatsoever kind or nature, whether prosecuted by the Lessee or third parties, resulting from any act, action, or omission, including but not limited to personal injuries including death, property damage or any other loss arising out of, incidental to or in any way connected to the Lessee's activities on or its use and occupation of the Premises and/or the Terminal Facilities including any claim, action, demand, loss, liability, damage or injury occasioned by the escape, discharge, dispersal, release, seepage, leakage or spillage of any Hazardous Substance used or handled by the Lessee. Each party shall give to the other party notice of any claim made or suit instituted that, in any way, affects the other party or its insurers. The Lessee and/or its insurers shall have the right to compromise and defend the same to the extent of their own interest. For purposes of this Article X, the term "Authority" shall include its governing board, officers, employees, agents and assigns and the term "Lessee" shall include its subsidiaries, contractors, subcontractors, agents, employees or assigns. In any and all claims or demands against the Authority by any employee of the Lessee or any of the Lessee's contractors, subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Article X shall not be restricted or reduced by any limitation on the amount or type of the damages, compensation or benefits payable by or for the Lessee or any of the Lessee's subcontractors under Worker's Compensation Acts, Disability Acts or other employee benefits laws. The provisions of this Section 10.1 shall survive the Term of this Agreement as such provisions may relate to any claim or demand that arose during the time this Agreement was in force and effect.

#### Section 10.2. Environmental Indemnification.

The Lessee hereby agrees that it shall indemnify, defend and hold the Authority harmless against any and all claims, actions, injuries, demands, losses, liabilities, penalties, costs, expenses and damages incurred by the Authority arising as a result of and to the extent caused by the Lessee's activities on or its use and occupation of the Premises or the Terminal Facilities that are in violation of any federal, state, municipal or other local environmental law, ordinance, rule or regulation or that lead to an environmental claim or penalty against the Authority. In the event the joint acts or omissions of the Authority and the Lessee should give rise to any environmental claim, action, injury, demand, loss, liability, penalty, cost, expense or damage, the responsibility for such environmental liability shall be apportioned according to each party's pro rata share of the entire liability. In determining the pro rata share of each party in the entire liability, their relative degrees of fault shall be the basis for allocation of liability. The principles of equity applicable to contribution generally shall apply. Each party shall give to the other party notice of any claim made or suit instituted that, in any way, affects the other party or its insurers. The Lessee or its insurers shall have the right to compromise and defend the same to the extent of their own interest. For purposes of this Article X, the term "Authority" shall include its governing board, officers, employees, agents and assigns and the term "Lessee" shall include its subsidiaries, subcontractors, agents, employees or assigns. The provisions of this Section 10.2 shall survive the Term of this Agreement as such provisions

may relate to any environmental claim or demand that arose during the time this Agreement was in force and effect.

Section 10.3. Authority's Obligation to Indemnify.

Subject to the limitations and provisions set forth in section 768.28, Florida Statutes, and without waiving any rights or limitations inuring to the benefit of the Authority, and except to the extent such Damages (as defined hereafter) result from the negligence or willful misconduct of the Lessee Indemnitees (as defined hereafter) or as set forth in Section 10.1, the Authority hereby agrees that it shall indemnify, defend and hold Lessee and Lessee's agents, employees, officers, directors and invitees ("Lessee Indemnitees") harmless from and against any and all claims, actions, demands, losses, penalties, costs, expenses, including attorney's fees and expenses, liabilities, and damages of whatsoever kind or nature ("Damages"), whether prosecuted by the Authority or third parties, in connection with or resulting from (a) the use or occupation of the Premises or the Terminal Facilities by the Authority, its employees or agents or Authority Invitees (collectively, the "Authority Parties"), (b) the violation of any Applicable Law or any other federal, state or local law, rule, regulation or ordinance by the Authority Parties, (c) the escape, discharge, dispersal, release, seepage, leakage or spillage of any Hazardous Substance on, under or about the Premises or the Terminal Facilities to the extent (i) set forth in the Environmental Assessment Report, (ii) not attributable to the use or occupancy of the Premises or the Terminal Facility by any Lessee Indemnitee, or (iii) such Hazardous Substances were present on the Premises or the Terminal Facilities before the Effective Date, and (d) failure by the Authority to maintain and repair the wharf or to dredge the Berthing Area as required hereunder. Each party shall give to the other party notice of any claim made or suit instituted that, in any way, affects the other party or its insurers. The Authority and/or its insurers shall have the right to compromise and defend the same to the extent of their own interest. The provisions of this Section 10.3 shall survive the Term of this Agreement as such provisions may relate to any claim or demand that arose during the time this Agreement was in force and effect.

ARTICLE XI

INSURANCE

Section 11.1. Procurement and Maintenance of Insurance.

(a) Effective as of the Effective Date and continuing throughout the remainder of the Term of this Agreement, without limiting its liability or the sovereign immunity of the Authority, the Lessee shall procure and maintain, at its expense, insurance policies of the type and with the minimal limits as stipulated in Exhibit C. The insurance policies must be issued by a company or companies meeting the following criteria (the "Insurer Criteria"): (i) such company or companies shall be either (a) authorized by subsisting certificates of authority by the Department of Insurance of the State of Florida or (b) an eligible surplus lines insurer under Florida Statutes; and (ii) such company or companies shall have a Best's Rating of A- or better and a Financial Size Category of "VI" or better, according to the latest edition of Best's Key Rating Guide, published by A.M. Best Company. If, during this period when an insurer is providing the insurance as required by this Agreement, an insurer shall fail to comply with the Insurer Criteria, as soon as Lessee has knowledge of any such failure, Lessee shall immediately notify the Authority and replace the insurance provided by the insurer with an insurer meeting Insurer Criteria within twenty (20) business days.

This insurance must insure the Lessee and the Authority against all liabilities for death, injuries or damages arising out of or in connection with the Lessee's use and occupancy of the Premises and/or the Terminal Facilities or the Lessee's business operation conducted thereon. The Lessee must also procure and maintain in force, an All-Risk, Special Form Property Insurance coverage on the Improvements on a

replacement cost basis effective as of the Effective Date and continuing throughout the remainder of the Term, in accordance with the terms of Section 12.1 hereof. The Lessee shall furnish to the Authority certificates evidencing such insurance, naming and endorsing the Authority as an additional insured under the Lessee's Commercial General or Marine Liability Coverage and Terminal Operator's and Stevedores Liability Coverage. Certificates or binders evidencing the existence thereof, all in such form as the Authority's Risk Manager may require, shall be delivered to the Risk Manager on or prior to the Effective Date. Each such policy or certificate shall include the following statements:

"THE JACKSONVILLE PORT AUTHORITY (THE "AUTHORITY"), AUTHORITY BOARD MEMBERS, OFFICERS, EMPLOYEES, AND AGENTS OF THE AUTHORITY ARE ADDITIONAL INSUREDS ON THESE POLICIES."

"This policy will not be canceled or materially changed or altered without first giving thirty (30) days written notice in advance thereof to the Risk Manager, Jacksonville Port Authority, P.O. Box 3005, Jacksonville, Florida 32206."

Section 11.2. Review and Adjustment of Insurance.

The insurance requirements stipulated on Exhibit C shall be subject to periodic review and adjustment by the Authority to ensure compliance with local current industry standards, and as applied by the Authority to third parties throughout the Terminal Facilities. Adjustment of insurance requirements shall apply upon sixty (60) days' written notice to the Lessee, without the necessity of formal amendment of this Agreement. The Authority may also require the Lessee to provide new policies if the carrier(s) issuing the policies shall fail to meet the Insurer Criteria set forth in Section 12.1(a) hereof.

Section 11.3. Authority's Self Insurance.

The Authority is a body politic and corporate chartered by the State of Florida, and as such, is subject to the provisions of Section 768.28, Florida Statutes. Accordingly, the Authority maintains a program of self-insurance that will respond to any liability of the Authority arising under this Agreement. The Lessee understands that the Authority's self-insurance coverage will not cover physical damage, theft or other loss of the cargo or property or equipment of the Lessee stored or used on the Premises except and only to the extent such loss or damage is caused by the sole negligence of the Authority. It is incumbent upon the Lessee to carry and maintain such types and amounts of insurance coverage it deems necessary to fully protect its own cargo, property or equipment.

Section 11.4. Failure to Maintain Insurance.

If Lessee fails to keep insurance coverage of the type and in the amount required, after thirty (30) days' written notice by the Authority of Lessee's failure to keep insurance coverage of the type and in the amount required, the Authority shall have the right, but not the obligation, to (a) (i) declare a Lessee Default pursuant to Section 16.1(e) and (ii) obtain coverage at Lessee's expense, or (b) terminate this Agreement immediately by providing written notice. Notwithstanding anything to the contrary contained herein, the Authority shall not be required to give Lessee notice of failure to maintain insurance in accordance herewith more than once per Contract Year.

## ARTICLE XII

### MAINTENANCE, REPAIRS AND RELOCATION

#### Section 12.1. Required Casualty Insurance Coverage.

Lessee covenants and agrees that it shall carry an ALL-RISK, SPECIAL FORM property insurance policy, including flood but excluding domestic and foreign terrorism, to cover all Improvements and insuring said Improvements on a replacement cost basis and naming the Authority as the primary insured, and the Lessee as additional insured, as their respective interests may appear. Such insurance shall be carried for the benefit of the Authority and the Lessee.

#### Section 12.2. Damage or Destruction to Premises.

(a) If the Premises should be partially damaged or become unusable or otherwise inaccessible as a result of fire, flood, windstorm, action of the elements or other casualty event, the damage shall be repaired by applying the proceeds derived from any insurance coverage on the Improvements, as provided in Section 12.3.

(b) If the Premises are (i) damaged to the extent that the Premises cannot reasonably be utilized for Lessee's intended use and the period required to repair such damage (as estimated by an independent general contractor mutually acceptable to the Authority and Lessee) is 180 days or more, or (ii) damaged to the extent of twenty percent (20%) or more of the replacement value thereof immediately prior to the occurrence (as certified by an independent general contractor or engineer mutually acceptable to the Authority and Lessee) or (iii) damaged in whole or in part during the last year of the Term of this Agreement, then, in any of such events, Lessee may terminate this Agreement by giving to the Authority notice within the later of ninety (90) days after the occurrence of such damage or sixty (60) days after the determination of the estimated repair period or the value of the extent of damage, as applicable. If the Lessee elects to terminate this Agreement, then, subject to the rights of the Authority set forth below, the Lessee shall demolish and remove any damaged part of the Improvements from the Land, at Lessee's cost to the extent of insurance proceeds available therefor in accordance with Section 12.3 hereof, with such demolition and removal to be commenced no later than thirty (30) days after delivery of Lessee's notice of termination of this Agreement and completed as soon as reasonably possible with all due diligence. Notwithstanding the foregoing, at least 10 days prior to the commencement of the demolition and removal of any damaged or partial Improvements with the termination of this Agreement, Lessee shall provide written notice thereof to the Authority, and the Authority may elect not to have such demolition and removal performed, and, in such event, the Premises shall be surrendered to the Authority and the Authority shall accept the Improvements in "as is" condition at the termination of this Agreement. If the Premises are damaged to the extent that Lessee may, but the Lessee elects not to, terminate this Agreement, then Lessee shall restore the Premises to the Premises' condition prior to the damage or to a functionally equivalent facility reasonably acceptable to the Authority.

#### Section 12.3. Application of Insurance Proceeds.

(a) If the damage to the Premises can be reasonably repaired and this Agreement is not subject to termination as a result of such damage, the proceeds of the insurance policies required under this Agreement relating to casualty losses shall be applied to repair or restore the Premises to its condition prior to sustaining damage in the following manner:

- (i) If the estimated cost of repair and restoration (the “Restoration Cost”) is less than \$500,000, the property insurance proceeds shall be paid to Lessee and applied to the Restoration Cost before being applied to any other purpose.
- (ii) If the estimated Restoration Cost is \$500,000 or more, the property insurance proceeds shall be paid into escrow with an insurance trustee (the “Insurance Trustee”). The Insurance Trustee shall be the leasehold mortgagee holding the highest priority lien leasehold mortgage, that agrees to act as Insurance Trustee, if any. If there is no leasehold mortgagee or if no leasehold mortgagee will agree to act as Insurance Trustee, then the Insurance Trustee shall be a bank with an office in Jacksonville, Florida selected by Lessee subject to the reasonable approval of Authority. The Insurance Trustee shall make payments to Lessee out of the insurance proceeds to be applied to the Restoration Cost as the repair and restoration work progresses and in accordance with the following principles:
  - (1) The Insurance Trustee shall not make payments more frequently than once each month but shall make Restoration Cost payments as directed by Lessee.
  - (2) Until the work is substantially complete, the Insurance Trustee shall make no payment unless the sum of the payment requested and all previous payments shall be less than the cost of the work to date.
  - (3) The Insurance Trustee shall make no payment unless the balance of the insurance proceeds (plus any additional sum deposited by Lessee) shall be at least sufficient to substantially complete the work.
  - (4) The Insurance Trustee shall make no payment unless it receives a certificate from Lessee’s architect or general contractor or construction manager certifying to the best of its knowledge: (A) that the funds requested do not exceed the reasonable cost of the work; (B) that none of the work for which payment is being requested has been made the basis for any previous payment; (C) that, insofar as the work has been completed, the work complies with the requirements of the plans and specifications for the work; and (D) that all contractors, subcontractors and materialmen which have performed work or provided materials have been paid any amount payable to them except for the amount to be paid by the application of the funds requested.
  - (5) The Insurance Trustee shall not be liable to Authority or Lessee in the absence of willful misconduct, fraud or gross negligence. The Insurance Trustee shall be entitled to charge a reasonable and customary fee for its services, which fee shall be paid by Lessee.
- (iii) To the extent to which the Restoration Cost exceeds the insurance proceeds, Lessee shall bear the cost.
- (iv) To the extent to which the insurance proceeds exceed the Restoration Cost, the excess shall be Lessee’s property.

- (v) All proceeds from the business interruption insurance or insurance on contents or other personal property carried by Lessee shall be the property of Lessee.

(b) If this Agreement is terminated as provided for herein as a result of damage to the Premises pursuant to the provisions of Section 12.2(b), the proceeds of the insurance policies required under this Agreement as a result of such damage shall be applied in the following manner:

- (i) (A) First, to the payment of all other charges and amounts then due and payable by Lessee under this Agreement; and (B) second, any remainder to the Lessee.
- (ii) The property insurance proceeds shall be applied to the demolition and removal of any totally destroyed or partially damaged Improvements if and as required in Section 12.2(b).
- (iii) To the extent to which the cost of the demolition and removal of any totally destroyed or partially damaged Improvements if and as required in Section 12.2(b) exceeds the insurance proceeds, Authority shall bear the cost.
- (iv) All proceeds from the business interruption insurance or insurance on contents or other personal property carried by Lessee shall be the property of Lessee.

Section 12.4. Maintenance and Repairs.

Lessee understands and agrees that as concerns its responsibility for maintenance and repairs related to the Premises, that this Agreement shall be considered to be a full net lease and accordingly during the entire Term of this Agreement or any hold over period, the Lessee shall at its own expense keep the Premises in good order, condition and repair except to the extent of the maintenance and repair obligations of the Authority expressly set forth herein. On the Lessee's failure to do so within thirty (30) days after receipt of written notice from the Authority to act, Authority may at its option, make the necessary repairs and replacements; provided that, if such matter is not reasonably capable of being repaired or replaced as required herein in such thirty (30) day period and Lessee is diligently pursuing such repair or replacement, the Authority shall not make any such repairs and replacements. The entire cost of such repair, maintenance and replacement if made by the Authority, plus ten percent (10%) in administrative costs, shall be paid by the Lessee to the Authority within fifteen (15) days of the date of the Authority's invoice. The Lessee shall provide, at its own cost, such custodial and housekeeping services for the Premises as it may desire.

The Authority agrees that it shall assume full responsibility for complete maintenance of each of the single user stormwater retention ponds (the "Retention Ponds") associated with the Premises that accept drainage waters collecting only upon the Premises. The Retention Ponds are specifically identified on Exhibit A to this Agreement. The Authority further agrees that it shall maintain all required permits related to the Retention Ponds issued to Authority by the jurisdictional regulatory agencies. The Authority retains the right to modify the Retention Ponds and associated permits for future development. The Lessee further agrees to be responsible for structural maintenance of the wharf.

Section 12.5. Authority's Inspection and Entry Rights.

The authorized representatives of the Authority shall have the right at reasonable times on business days and upon reasonable notice, during normal working hours or at any time in case of an emergency, to enter upon the Premises for the following purposes:

(a) To inspect the Premises to determine whether the Lessee has complied and is complying with the provisions and conditions of this Agreement. This right of inspection reserved to the Authority imposes no obligation on the Authority to make inspections to ascertain the condition of repair or preservation of the Premises or the improvements thereon and imposes no liability upon the Authority for failure to make such inspections.

(b) To perform maintenance and make repairs and replacements in accordance with Section 12.4 of this Agreement when the Lessee has failed to do so as required.

(c) To perform any emergency repairs deemed necessary by the Authority to eliminate any dangerous condition to which the Lessee does not promptly respond. The entire cost of such repair, maintenance and replacement, plus ten percent (10%) in administrative costs, shall be paid by the Lessee to the Authority within fifteen (15) days of the date of the Authority's invoice.

Section 12.6. Effect of Entry.

No method of entry authorized herein and made by the Authority shall cause or constitute grounds for the termination of this Agreement by the Lessee or be deemed to constitute an interference with the possession or use of the Premises by the Lessee if made in accordance with the terms of this Agreement and applicable law.

## ARTICLE XIII

### ALTERATIONS AND IMPROVEMENTS

Section 13.1. Consent Required.

The Lessee shall provide the Authority a list of anticipated capital projects at the Premises (a "Capital Projects List") annually, no later than thirty (30) days after the start of each Contract Year, to provide the Authority with awareness of construction and/or capital projects. A project on the Capital Projects List does not require the Authority's written consent. For a project that is not included on the Capital Projects Lists, the Lessee shall not, without having first obtained the written consent of the Authority, which shall not be unreasonably conditioned or delayed, (a) make any improvement or alteration to any improvement to the Premises costing over One Million No/100 Dollars (\$1,000,000.00) whether owned by Authority or the Lessee or (b) construct or modify any site on the Premises costing over One Million No/100 Dollars (\$1,000,000.00) of such construction or modification when such site is used for the maintenance of vehicles, equipment or containers, including the fueling of vehicles or any other equipment.

The Lessee shall present any such project to the Authority in writing, together with plans and specifications for construction of the proposed improvement or alteration, and all required permits prior to the commencement of construction or alterations. The Lessee shall provide all designs, drawings, and calculations carrying the stamp and signature of a Florida Licensed Professional Engineer and/or Florida Licensed Architect, as applicable. The Lessee shall indemnify and save Authority harmless from all loss, damage or liability of any kind or nature by reason of or resulting from Lessee's making any alterations, additions or improvements to the Premises. Any alterations, additions or improvements made by the Lessee to the Premises shall become and remain the property of the Authority at the termination of this Agreement or at the time Lessee surrenders occupancy of the Premises except for the cranes owned by Lessee installed on the Premises. At its option, the Authority may, however, require the Lessee to remove or cause to be removed any such alterations, additions or improvements and restore the Premises to the condition existing at the date of the commencement of the Term of this Agreement, ordinary wear and tear excepted.

Unattached trade fixtures, office furniture and such other personal property shall remain the property of the Lessee.

Section 13.2. “As Builts” to be Provided.

After completion of any approved improvement or alteration, the Lessee shall provide a set of as-built drawings to the Authority at no cost to the Authority, a written notice of completion, a Certificate of Occupancy, if applicable, and other applicable final approvals.

## ARTICLE XIV

### ASSIGNMENT, SUBLETTING AND TRANSFER

(a) Except as provided in this Agreement, Lessee shall not, either directly or indirectly, assign, hypothecate, encumber or transfer this Agreement or any interest herein, or sublet the whole or any part of the Premises, or license the use of same in whole or in part without written consent of the Authority evidenced by resolution of the Authority. Neither this Agreement nor any interest therein shall be assignable or transferable in proceedings in attachment, garnishment or execution against Lessee, or in voluntary proceedings in bankruptcy or insolvency or receivership taken by or against Lessee or by any process of law, and possession of the whole or any part of the Premises shall not be divested from Lessee in such proceedings or by any process of law without written consent of the Authority, and any breach of the provisions of this paragraph shall cause this Agreement to terminate immediately at the option of the Authority. The Authority will not unreasonably withhold its consent to an assignment of this Agreement as the result of a corporate merger of Lessee in which Lessee is not the surviving entity so long as the financial strength and responsibility of the surviving merged entity is at least equal to that of the Lessee. The Authority's consent shall not be required in connection with a merger of Lessee in which Lessee is the surviving entity.

(b) Notwithstanding anything to the contrary contained in this Article XIV, the Lessee individually or collectively may, without further consent of the Authority, assign its interest as Lessee under this Agreement to Ceres Terminals or any subsidiary of thereof in which Ceres Terminals has a Controlling Interest (a “Lessee Assignee”) upon prior written notice of such assignment to the Authority and the furnishing to the Authority written evidence satisfactory to the Authority of the assignment and of the legal ability of said entity to accept the assignment of this Agreement and its obligations; provided that no such assignment shall be effective until Lessee also delivers to the Authority a fully executed guaranty agreement guaranteeing performance of such entity under this Agreement, and provided further that said assignment shall only be effective so long as Ceres Terminals retains a direct or indirect Controlling Interest in the Lessee Assignee and in such event Ceres Terminals ceases to have a direct or indirect Controlling Interest in the Lessee Assignee, or the Lessee Assignee entity dissolves its corporate existence, the interest in this Agreement so assigned shall immediately revert to Lessee or be assigned to Ceres. Lessee shall be obligated to immediately inform the Authority in writing in the event Ceres Terminals ceases to have a direct or indirect Controlling Interest in the Lessee Assignee. In the event of any such assignment of this Agreement the Authority shall promptly give the Federal Maritime Commission written notice of such assignment at such Commission's offices in Washington, D.C.

(c) Notwithstanding anything to the contrary contained in this Article XIV, it is expressly understood and agreed that in considering a request of Lessee, or any of its successors in interest, for the consent of the Authority to an assignment hypothecation, encumbrance or transfer of this Agreement or of any interest therein, or a subletting of the whole or any part of the Premises, or the licensing of the use of



the same in whole or in part, except for the assignment to a Lessee Assignee in accordance with Article XIV(b), the Authority may consider the use of the Premises by the proposed assignee, transferee, sublessee or licensee, and that the consent of the Authority shall not be deemed to be unreasonably withheld if the Authority shall require, as a condition of granting its consent, that the Lessee's payment obligations set forth in Article V hereof shall be increased to compensate the Authority therefor and in the event of any such increase in said payment obligations documentation evidencing such increase will be filed by the Authority with the Federal Maritime Commission at its offices in Washington, D.C. if such filing is then required by the Shipping Act or other regulation.

(d) Except as otherwise described above, the provisions of Section 4.1 Disposal Fees shall be negotiated in the event of an assignment, sublet, or transfer under Article XIV.

## ARTICLE XV

### NO INDIVIDUAL LIABILITY

No appointed member of the Authority, or officer, agent, director or employee of either party hereto shall be held contractually or personally liable under this Agreement because of any breach of the Agreement or because of its execution or attempted execution by such individual.

## ARTICLE XVI

### EVENTS OF DEFAULT AND REMEDIES

#### Section 16.1. Event of Default by Lessee.

Any of the following events shall constitute "Lessee Default" under this Agreement by Lessee:

(a) Failure of Lessee to pay Rent when due after ten (10) days' written notice from the Authority; provided the Authority shall not be required to provide notice of such failure more than once each Contract Year;

(b) [RESERVED];

(c) Failure of Lessee to perform any of its obligations under this Agreement, other than as described in paragraphs (a), (b), (d) or (e) of this Section 16.1, and such default shall continue for thirty (30) days after written notice specifying such default and requiring the same be remedied shall have been given to the Lessee by the Authority; provided that if such breach cannot be wholly remedied within thirty (30) days of such notice, the failure of Lessee shall not constitute a default hereunder if the Lessee shall commence with due diligence and dispatch the curing of such breach and, having so commenced the curing of such breach, shall thereafter prosecute and complete the same with due diligence and dispatch. Notwithstanding anything to the contrary contained herein, in any event such failure shall be remedied within one-hundred eighty (180) days after written notice thereof. Lessee will provide oral and/or written notice to the Authority of the schedule for curing breaches that are not able to be remedied within thirty (30) days.

(d) Abandonment by Lessee of the Premises or cessation of its operations at the Premises for any period of time exceeding thirty (30) days except as previously authorized in writing by Authority or except if such abandonment and cessation is due to a Force Majeure or a default by the Authority;

(e) Failure of Lessee to maintain insurance as mandated by Article XI or Article XII or as it may be revised from time to time, after ten (30) thirty days' written notice from the Authority, provided the Authority shall not be required to provide notice of such failure more than once each Contract Year; or

(f) An Act of Bankruptcy.

Section 16.2. Remedies on Event of Default.

Upon the happening and during the continuance of any Lessee Default specified in Section 16.1 after the expiration of same for the applicable cure period, if any, set forth in Section 16.1, the Authority may, at its discretion, avail itself of any one or more of the following remedies:

(a) Without initially terminating this Agreement, the Authority may reenter and take possession of the Premises, and the Lessee shall continue to timely make such payments as required under this Agreement. The Authority may thereafter enter into a new lease of the Premises with any party, or operate the same on its own behalf. Immediately prior to commencement of the Authority's operation of the Premises or the effective date of the new lease, as applicable, the Authority shall notify Lessee of such event. Upon receipt of such notification, Lessee shall:

- (i) pay the costs of the Authority to prepare the Premises for reletting; or
- (ii) continue to pay Rent and other payments required hereunder as the same shall become due under this Agreement.

Upon payment by Lessee of the amounts described in clause (i) above, this Agreement shall be terminated and the Lessee shall be entitled to receive sums paid to the Authority for its operation of the Premises or by the new tenant to the extent such sums equal amounts that would have become due under this Agreement from the time of commencement of operation of the Premises or the effective date under the new lease, as applicable, to the end of the scheduled Term of this Agreement. As to clause (ii) above, this Agreement shall be terminated except for Lessee's continuing liability for payment of Rent and other payments required hereunder as the same shall become due and payable, as reduced by any sums received by the Authority under a new lease; provided that (A) the Authority shall use commercially reasonable efforts to seek a new tenant for the Premises, and (B) commencing on the date the Authority takes possession of the Premises, Lessee shall not be liable for actions or omissions of the Authority or its subsequent tenant on the Premises.

(b) The Authority may immediately terminate this Agreement, enter the Premises and exclude Lessee from possession of the Premises, declare all fees and other charges and amounts which are then due and payable, costs of the Authority to prepare the Premises for reletting to be immediately due and payable. Upon payment by Lessee of the amounts described in the preceding sentence, the Lessee shall be entitled to receive sums paid to the Authority for its operation of the Premises or by the new tenant to the extent such sums equal amounts that would have become due under this Agreement from the time of commencement of operation of the Premises or the effective date under the new lease, as applicable, to the end of the scheduled Term of this Agreement; provided that that (i) the Authority shall use commercially reasonable efforts to seek a new tenant for the Premises, and (ii) commencing on the date the Authority takes possession of the Premises, Lessee shall not be liable for actions or omissions of the Authority or its subsequent tenant on the Premises.

(c) The Authority may take whatever other action at law or in equity that it considers to be necessary or desirable in order to collect any amounts then due and thereafter to become due from Lessee, or to enforce performance and observance of any obligation, agreement or covenant of Lessee under this Agreement, or may exercise all rights and remedies that are available under Florida and federal law. No

method of entry authorized herein and made by the Authority shall cause or constitute grounds for the termination of this Agreement by the Lessee or be deemed to constitute an interference with the possession or use of the Premises by the Lessee if made in accordance with the terms of this Agreement and applicable law.

Section 16.3. Event of Default by Authority.

Lessee may cancel this Agreement, at any time that no Lessee Event of Default has occurred and is continuing, by giving Authority thirty (30) days' written notice, upon the happening of any one of the following events (each an "Authority Default"):

(a) Authority's voluntary, permanent abandonment of the Terminal Facilities as a port terminal; provided, however, that if Authority commences operating another port facility in conjunction with the abandonment of the Terminal Facilities, Lessee shall have the right, at the Authority's sole cost and expense and at Lessee's sole election, to relocate, upon demand, to comparable space at the new port facility on terms substantially similar to the terms contained in this Agreement (including, without limitation, Authority's consent to a new leasehold mortgage on the new premises securing bonds or other indebtedness); or

(b) the breach by Authority in the performance of any covenant or agreement contained herein and the failure of Authority to remedy such breach within thirty (30) days of such notice; provided that if such breach cannot be wholly remedied within thirty (30) days of such notice, the failure of the Authority shall not constitute a default hereunder if the Authority shall upon immediate receipt of such notice commence with due diligence and dispatch the curing of such breach and, having so commenced the curing of such breach, shall thereafter prosecute and complete the same with due diligence and dispatch. Notwithstanding anything to the contrary contained herein, in any event such failure shall be remedied within one-hundred eighty (180) days after written notice thereof.

Section 16.4. Remedies not Exclusive.

No remedy under this Article is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement. No delay or omission to exercise any right upon breach shall impair any such right or shall be construed to be a waiver thereof. In the event there should be a breach under any of the provisions of this Agreement and Authority or Lessee should retain attorneys or incur other expenses for the collection of rent or the enforcement of performance of any obligation or agreement, the parties agree that the prevailing party shall be entitled to collect from the other party the reasonable fees of attorneys and such other reasonable expenses incurred in such proceeding.

Section 16.5. Right to Find a Buyer.

If a Lessee Default under Section 16.1 has occurred and Authority intends to terminate in accordance with the provisions of this Article XVI, Lessee may, within sixty (60) days from the date of the Lessee Default, produce a buyer (the "Buyer") for Lessee's leasehold interest. If such a Buyer is produced, Lessee may assign its rights and obligations to such Buyer, who shall be bound by all the terms, covenants and agreements of this Agreement, including the obligation to pay any amounts then due from Lessee under this Agreement and to cure any other breach which is susceptible of being cured by such Buyer. Said Buyer, if produced, shall be subject to approval by Authority, which approval shall not be unreasonably withheld. In determining whether to approve said Buyer, the Authority may reasonably take into consideration the following relevant factors (such factors being referred to herein as the "Approval Criteria"): (a) the business experience and business reputation of the proposed Buyer and its officers and owners; (b) the operating

performance, creditworthiness and financial condition of the proposed Buyer; (c) the nature of the business of the proposed sublessee or assignee to be conducted upon the Premises which should relate to the handling or waterborne cargo to and/or from the Premises or such other port related activity that would afford the Authority a favorable return on its investment in the Premises; (d) whether a significant decline in the monetary gain realized or reasonably anticipated by the Authority under the Lease would be reasonably expected subsequent to the assignment of the Lease; and (e) any potential investment of capital by the Authority to fund the costs of improvements, repairs, restorations, modifications or changes to the Premises or the infrastructure of the Terminal Facilities (as defined in the Lease) made necessary by the nature of the business activity of the sublessee or assignee to be conducted thereon.

## ARTICLE XVII

### LAWS, ORDINANCES, RULES AND REGULATIONS TO BE OBSERVED

#### Section 17.1. Unauthorized Use.

The Lessee shall not use or permit the use of the Premises and/or the Terminal Facilities for any purposes not authorized by this Agreement.

#### Section 17.2. Unlawful or Hazardous Use Prohibited.

The Lessee shall not use or occupy the Premises or permit it to be used or occupied for any unlawful purpose or for any purpose other than as permitted in Article II and Article XVIII hereof without the prior written consent of the Authority.

#### Section 17.3. Compliance with the Law.

The Lessee shall comply in all material respects with and shall cause its officers, employees and any other persons over whom it has control to comply in all material respects with all municipal, state and federal laws, ordinances, and rules and regulations applicable to the Lessee's use of the Premises including but not limited to those adopted by the United States Occupational Safety and Health Administration, Bureau of United States Customs and Border Protection, United States Coast Guard, United States Environmental Protection Agency, Florida Department of Environmental Protection, United States Department of Transportation, and the Florida Department of Highway Safety and Motor Vehicles. The Lessee shall also ensure compliance with the Oil Pollution Act of 1990, 33 CFR Part 105, the Authority's rules and regulations governing the use of its Terminal Facilities by its tenants including the Authority's Seaport Security Plan adopted in accordance with Section 311.12, Florida Statutes and the Authority's published tariff or its reissue. In the event any municipal, state or federal agency implements any law, ordinance, statute, rule or regulation requiring the Authority, as the Terminal Facilities owner, to perform any protective or preventative procedure including the booming of vessels, it shall be the responsibility of the Lessee to perform these procedures at its expense; provided that the necessity of such procedure is mandated or otherwise required as a result of the Lessee's operation on the Premises and/or the Terminal Facilities.

#### Section 17.4. Permits and Licenses.

The Lessee shall be responsible for obtaining all local, state and federal permits and/or licenses as may be necessary for it to operate according to the terms of this Agreement. The Lessee shall maintain said permits and/or licenses throughout the entire Term of this Agreement and shall submit copies to the Authority if requested to do so at no cost to the Authority.

Section 17.5. Fines or Penalties.

The Lessee will hold harmless and reimburse the Authority for any fine or penalty assessed against the Authority that is imposed as a result of the Lessee's failure to comply with any law, ordinance, rule or regulation applicable to its operation on the Premises and/or the Terminal Facilities.

Section 17.6. Inspection of Premises to Verify Compliance.

The authorized representatives of the Authority shall have the right, at reasonable times and upon reasonable notice, during normal working hours, to enter upon any part of the Premises to verify the Lessee's compliance with applicable laws and regulations and with the provisions and conditions of this Agreement. The authorized representatives of the Authority shall have the right to enter upon any part of the Premises at any time in the case of emergency. Inspections are subject to the provisions of Section 12.5.

Section 17.7. Other Rules and Regulations.

Unless stated otherwise in this Agreement, all rules and regulations stipulated in Authority's published tariff or its reissue shall apply to the Lessee's operations on the Premises and Terminal Facilities. Lessee is responsible for understanding any and all federal, state, and local laws, rules and regulations that may be applicable to the Premises.

## ARTICLE XVIII

### ENVIRONMENTAL MANAGEMENT, COMPLIANCE AND RESPONSIBILITY

Section 18.1. General Environmental Obligations of the Lessee.

The Lessee shall:

(a) maintain the Premises in compliance in all material respects with any Applicable Law and be responsible for making any notification or report required to be made under such law concerning the Premises to the designated governmental authority;

(b) obtain and maintain in full force and effect all material governmental approvals required by any Applicable Law for operations on the Premises;

(c) expeditiously cure to the reasonable satisfaction of the Authority any material violation of Applicable Law at the Premises and/or Terminal Facilities (i) at the expense of the Authority to the extent such violation is attributable to events or conditions that existed before the Lessee took occupancy of the Premises under this or any other lease with the Authority and (ii) at its own expense to the extent such violation is attributable to events or conditions that arose on or after the date the Lessee took occupancy of the Premises;

(d) not create or operate at the Premises any (i) landfill or dump or (ii) hazardous waste facility or solid waste disposal facility as defined pursuant to RCRA or comparable state or local law; and

(e) not manufacture, use, generate, transport, store release, dispose of or handle any Hazardous Substance at the Premises and/or Terminal Facilities except in the ordinary course of business as of the date the Lessee took occupancy of the Premises except in de minimis amounts, without the written permission of the Authority.

Section 18.2. Fueling and Maintenance Areas.

In the event the Premises contains a site designated for maintenance and fueling of vehicles, equipment or containers, the Lessee shall maintain, or cause such site to be maintained, in a safe and orderly manner. The Lessee shall allow no material discharge or leakage of Hazardous Substances (including petroleum and petroleum products) on the Premises. Any above ground fuel tanks or mobile tanks that may be installed or used on the Premises shall be protected and operated in compliance with all Applicable Laws, rules and regulations and in accordance with this Article XVIII.

Section 18.3. Remediation of Environmental Damage.

The Lessee shall conduct expeditiously to the reasonable satisfaction of the Authority and in accordance with any Applicable Law any response action necessary to remove, remediate, clean up, or abate any material Hazardous Substance Release, threatened Release, or disposal of Hazardous Substances (a) at the Authority's expense to the extent such response action is attributable to events or conditions that existed before the date the Lessee's occupancy of the Premises commenced, or as set forth in the Environmental Assessment Report, or to the use or occupancy of the Premises by the Authority or its employees or invitees, and (b) at the Lessee's expense to the extent such response action is attributable to the use or occupancy of the Premises by Lessee or Lessee's employees or invitees. The Lessee shall not be responsible for the remediation of any contamination to the environment caused by any Hazardous Substance Release resulting from operations conducted on the Premises and/or Terminal Facilities that occurred before the Effective Date, including the payment of all investigative, clean up or restoration costs associated therewith, including, without limitation, as set forth in the Environmental Assessment Report. Lessee shall be responsible for the remediation of any contamination to the environment caused by any Hazardous Substance Release resulting from operations of Lessee or Lessee's invitees conducted on the Premises and/or the Terminal Facilities during the term of this Agreement (or that occurs during any period of holding over as contemplated by Section 3.2 hereof), including the payment of all investigative, clean up or restoration costs associated therewith.

Section 18.4. Lessee's Duty to Report.

The Lessee shall give immediate oral and written notice to the Authority upon receiving notice of the happening of any event involving an emission, spill, release, or discharge of a Hazardous Substance into or upon (a) the air, (b) soils or any improvements located thereon, (c) surface water or groundwater, or (d) the sewer, septic system or waste treatment, storage or disposal system serving the Premises. The Lessee shall also immediately report and submit a written notice to the Authority upon receiving a complaint, order, directive, claim, citation or notice by any governmental authority or any other person or entity with respect to (i) air emissions, (ii) spills, releases, or discharges to soils or any improvements located thereon, surface water, ground water or the sewer, septic system or waste treatment, storage or disposal systems serving the Premises and/or Terminal Facilities, (iii) noise emissions, (iv) solid or liquid waste disposal, (v) the use, generation, storage, transportation, or disposal of toxic or Hazardous Substances or wastes, or (vi) other, environmental, health or safety matters affecting the Lessee, the Premises and any improvements located thereon, or the business conducted therein. Without limitation on the foregoing, the Authority shall have the option but shall not be obligated, to exercise any of its rights as provided in this Agreement and may enter onto the Premises and take any actions it deems reasonably necessary or advisable to cleanup, remove, resolve, or minimize the impact of, or otherwise deal with, any Hazardous Substance Release, or complaint upon the Authority's receipt of any notice from any person or entity asserting the happening of a Hazardous Substance Release or a complain on or pertaining to the Premises and/or Terminal Facilities. All costs and expenses incurred by the Authority in the exercise of such rights shall be deemed additional costs hereunder and shall be payable to the Authority upon demand, unless the Authority is solely responsible for the occurrence or the circumstances relating to the complaint.

Section 18.5. Environmental Inspection.

The Authority reserves the right and may, during normal business hours on business days and upon reasonable notice or at any time in case of an emergency enter upon the Premises for the purpose of determining the Lessee's compliance with the provisions of this Agreement relating to environmental matters. Throughout the Term of this Agreement, the Authority shall be granted complete access to all records maintained by the Lessee relating to the use or storage of Hazardous Substances on the Premises. The Lessee shall provide the Authority with copies of any and all reports prepared by its employees or consultants pertaining to the environmental condition of the Premises within twenty-four hours of receipt by the Lessee's management.

Section 18.6. Removal of Hazardous Substances and Equipment.

The Lessee shall remove from the Premises at its expense, as appropriate, by the date of termination of this Agreement any Hazardous Substances or equipment utilized to manufacture, generate, transport, treat, store, release, dispose or handle any Hazardous Substance used by the Lessee in the course of the Lessee's business, including, without limitation, any storage tank.

Section 18.7. Indemnification and Waiver.

In addition to the provisions of Section 10.2, the Lessee shall indemnify, hold harmless, and hereby waives any claim for contribution against the Authority for any damages to the extent they arise from the Lessee's use and occupancy of the Premises and are related to (a) any Hazardous Substance Release, threatened Release, or disposal of any Hazardous Substance at the Premises; provided that the foregoing indemnification and waiver shall not apply to any damages to the extent (i) Lessee is entitled to indemnification under Article 10, or (ii) such damages arise from the use or occupation of the Premises or the Terminal Facilities by any Person other than Lessee or Lessee's invitees; (b) the operation or violation of any Applicable Law at the Leased Premises by the Lessee or Lessee's invitees; or (c) any claim or complaint arising from the use, handling or disposal of any Hazardous Substance on the Premises and/or the Terminal Facilities by the Lessee or Lessee's invitees. This indemnification and waiver shall be binding upon the successors and the Lessee and shall inure to the benefit of the Authority, its directors, officers, employees and agents and their successors and assigns. The provisions of this Section shall survive the Term of this Agreement as such provisions may relate to any claim or demand that arose during the time this Agreement was in force and effect.

## ARTICLE XIX

### SECURITY

Pursuant to the requirements of Section 17.3 hereof, the Lessee must comply with all laws imposing security requirements and measures relative to the Lessee's use and occupation of the Premises and the Terminal Facilities. Specifically, the Lessee understands and agrees that it shall bear the primary responsibility of compliance with the requirements of Section 311.12, Florida statutes, as amended and 33 CFR, Part 105. Such compliance includes the payment of the costs and expenses of all operational requirements related to mandated security measures as well as the payment of all costs for security related infrastructure that must be installed on the Premises, including the cost of interfacing the information technology features of Lessee's Security System with the security system of the Authority. The Lessee agrees that it shall be responsible for the payment of all such costs and expenses as more fully outlined in Exhibit D. The Authority agrees that it shall cooperate with the Lessee by coordinating the efforts of the parties whenever the security measures required of each can best be served by a cooperative effort. The Authority shall also provide such oversight related to the security of the Premises as shall be required of it

as owner and agrees that it shall meet and satisfy its obligations as required by law relative to the security of the Premises. The Lessee recognizes that the Authority has certain security responsibilities imposed on it by law as the owner of the Premises and in its capacity as a public deep-water port. The Lessee agrees that it will grant the Authority unrestricted access to the Premises in order for Authority to determine and ensure compliance with any and all applicable state or federal laws and/or regulations and to timely take such corrective action as is directed by Authority necessary to achieve compliance with such laws and/or regulations. In those instances when the Authority is providing security oversight or assistance to Lessee in matters of security, Lessee agrees that it shall hold the Authority harmless from and not prosecute any claim against the Authority for direct or consequential damages occurring as a result of the loss of business or any other loss resulting from the suspension or delay of Lessee's business operations occasioned by the enforcement of any security requirement imposed by federal, state or local law or regulation (not including any such requirement imposed by law or regulation of the Authority).

## ARTICLE XX

### DISPUTE RESOLUTION

#### Section 20.1. Applicability.

Each party to this Agreement specifically reserves its right to institute suit or other appropriate legal proceeding for the purpose of resolving any dispute arising out of the operation or interpretation of this Agreement. It is expressly understood and agreed that this Article XX shall not be applicable to Lessee's obligation to timely pay Rent and expenses, costs and fees as set forth in this Agreement.

#### Section 20.2. First Phase of Dispute Resolution Negotiation.

With respect to those certain issues between the parties as expressly identified in this Agreement as being subject to the provisions of this Article XX, then in such event that a dispute arises relative to the interpretation of those relevant provisions of this Agreement or if a dispute concerning the relevant duties or obligations of the parties pursuant to this Agreement arises, the parties shall first attempt to settle the dispute through negotiation at the operating level. The aggrieved party shall provide written notice of the dispute and the basis for its position to the other party as set forth in Section 23.7. After receipt of this written notice, the authorized representatives of the Authority and the Lessee shall in good faith attempt to negotiate a settlement of the dispute during the next sixty (60) days. Any negotiated resolution of the dispute shall not be binding on the Authority and the Lessee until the settlement is reduced to writing and signed by the authorized representatives of the Authority and the Lessee.

#### Section 20.3. Authorized Representatives in First Phase Dispute Resolution.

The Executive Director of the Authority, or his designee, will represent the Authority in all matters pertaining to the first phase dispute resolution and will be empowered to bind the Authority, subject to review and approval by the Authority's Board of Directors ("Board"), if required. In the event Board approval is required, the settlement document must contain a statement to that effect. It is further understood and agreed that the Lessee's representative shall act in its behalf and represent the Lessee in all matters pertaining to dispute resolution and shall be empowered to bind the Lessee.

#### Section 20.4. Second Phase Dispute Resolution – Mediation.

The parties agree that in the event of a dispute arising out of this Agreement which is not resolved according to Section 20.2 that, prior to filing any suit, action or other legal proceeding, the parties shall submit their dispute to mediation, as defined in Section 44.1011(2), Florida Statutes. The mediation shall



be conducted as if it were a court-ordered mediation under Section 44.102, Florida Statutes, for actions filed in courts of records in the State of Florida, in Duval County. Mediation proceedings shall be held in Jacksonville, Florida.

(a) The mediator's duties shall be to interpret this Agreement, to make determinations of fact applicable to the dispute to determine whether there was, in fact, a breach of this Agreement, and to offer action necessary to resolve the dispute so as to further implement this Agreement. In resolving the dispute, the mediator shall not amend the provisions of this Agreement. The laws of the State of Florida shall govern the interpretations and factual determinations of the mediator.

(b) The fees and charges of the mediator shall be borne equally by the Authority and the Lessee, but each party shall bear its own attorneys' fees, expert witness fees and other costs.

Section 20.5. Litigation Costs and Fees.

In the event the parties are unable to mediate their disputes but instead seek judicial relief, each party shall bear its own attorneys' fees and costs.

## ARTICLE XXI

### SURRENDER OF LEASED PREMISES

Section 21.1. Condition of the Premises and Improvements.

The Lessee covenants that, at the expiration of the Term of this Agreement or at any earlier termination, it will surrender the Premises to the Authority in a good and clean state of repair and preservation, ordinary wear and tear excepted. Ordinary wear and tear shall not include deterioration of the Premises that could have been prevented by proper maintenance practices on the part of the Lessee or by the Lessee properly performing its obligations under this Agreement.

Section 21.2. Title to Improvements.

Upon the termination or natural expiration of this Agreement, all buildings, fixtures and other improvements built on, or made to, the Premises by the Lessee shall remain on the Premises and shall immediately become the exclusive property of the Authority. Upon surrender of the Premises, the Lessee shall remove or cause to be removed all equipment, trade fixtures and personal property belonging to it which have not assumed the characteristics of a permanent fixture. All personal property of Lessee not removed from the Premises upon termination or natural expiration of this Agreement shall be deemed abandoned and shall become property of the Authority. Notwithstanding the foregoing, upon termination, natural expiration, or Authority's entry onto the Premises pursuant to Section 16.2(a), the Lessee shall have an additional sixty (60) days to remove all cranes from the Premises; provided that the Lessee's access to the Premises during such sixty day period shall be subject to: (a) provision of insurance as required in Article XI, (b) Lessee's indemnification provisions as set forth in Article X, and (c) Lessee's reasonable non-interference with the operation of the Premises.

Section 21.3. Damage to Property.

Any damage caused to the Authority's property by the removal of any of the Lessee's equipment, trade fixtures or personal property shall be repaired by the Lessee at its sole expense within a reasonable period from the time the damage occurs.

## ARTICLE XXII

### LETTER OF CREDIT

As security for Lessee's performance of its payment obligations under this Agreement, Lessee or one of its affiliates, shall provide Authority until expiration or termination of this Agreement, with one or more standby letters of credit in any initial aggregate stated amount equal to no less than fifty (50%) of the MAG for the first Contract Year of Term, and to be adjusted as of the beginning of each Contract Year thereafter to reflect a stated amount equal to no less than fifty (50%) of the MAG for such Contract Year. Each letter of credit required under this Agreement which the Lessee is required to provide under this Article XXII shall (a) be issued by in favor of Authority, (b) be a direct pay, standby letter of credit, (c) be payable at sight conditioned only on written presentment from Authority to the issuer of a sight draft drawn on the letter of credit, (d) not require the beneficiary of such letter of credit to present the original letter of credit in order to make a draw thereunder, (e) allow for multiple draws, and (f) allow for drawing in the State of Florida, or otherwise by facsimile or other electronic transmission, (g) be governed by International Standby Practices ("ISP98") and as to matters not governed by ISP98, the laws of the either one of the State of New York or the State of Florida, without regard to the principles of conflicts of law thereunder, and (h) require all actions, suits or proceedings to enforce the letter of credit to be subject to the exclusive jurisdiction of the courts of either one of the State of New York or the State of Florida. Authority shall be entitled to the proceeds of any draw on such letter of credit, in addition to those other instances contemplated in this Article XXII, for the sole purpose of satisfying any outstanding and due obligations of Lessee pursuant to the terms of this Agreement.

## ARTICLE XXIII

### GENERAL PROVISIONS

#### Section 23.1. Non-Waiver.

A waiver by either party of any of the provisions, conditions, or covenants of this Agreement shall not be deemed by the other party at any time thereafter to be a waiver of the same or any other provision, condition, or covenant herein contained, or to be a waiver of the requirement for the strict and prompt performance thereof. No notice by either party is required to restore or revive any right, power, remedy, privilege or option following a waiver by either party of any requirement, obligation or default of the other. No right, power, remedy, privilege or option of either party shall be construed as being exhausted or discharged by the exercise thereof on more than one occasion.

#### Section 23.2. Options, Rights, Powers and Remedies are Independent.

Each of the options, rights, powers, or remedies given to either party according to this Agreement shall be cumulative, and no one of them shall be exclusive of the other or exclude any remedies provided by law. The exercise of one option, right, power or remedy shall not preclude the exercise of any other option, right, power or remedy, except in those cases where it is expressly so provided.

#### Section 23.3. Modifications.

Except as otherwise provided in Section 23.5, no change in, modification to, or amendment to this Agreement shall be valid or enforceable unless it is approved by the Lessee and the Authority, reduced to writing and executed by the duly authorized representatives of the Authority and the Lessee.

Section 23.4. Severability.

In the event any covenant, condition or provision of this Agreement is held to be invalid by any court of competent jurisdiction, such determination of invalidity will not materially prejudice either the Authority or the Lessee as to their respective rights or other obligations contained in the valid covenants, conditions or provisions of this Agreement that shall remain and continue in full force and effect.

Section 23.5. Exhibits.

All exhibits or schedules referenced in this Agreement or that may be referenced from time to time in any duly executed amendment to this Agreement are by this reference incorporated herein and shall be deemed to be a part of this Agreement as if fully set forth herein. Certain exhibits and schedules to this Agreement will be adjusted as a result of self-executing provision of this Agreement and those changes will take effect automatically. The exhibits and schedules attached to this Agreement may otherwise be adjusted by mutual consent of the Lessee and the Authority without the necessity of formal amendment to the body of this Agreement. Upon adjustment of any exhibit or schedule, a revised exhibit or schedule shall be prepared and executed by the Authority and the Lessee. Each new exhibit or schedule, which supersedes the effective date of a previous exhibit or schedule, shall replace such exhibit or schedule and shall constitute a binding amendment that shall be deemed a part of this Agreement.

Section 23.6. Withholding Required Approvals.

Whenever approval by the Authority or the Lessee is required by the provisions of this Agreement, no such approval shall be unreasonably withheld or denied.

Section 23.7. Notices, Consents and Approvals.

All notices, consents or approvals required by or otherwise contemplated by this Agreement shall be provided in writing and signed by a duly authorized representative of the party on whose behalf they are given. Such notice, consent or approval shall be deemed to be validly and sufficiently served at the time a properly addressed letter with sufficient postage is (a) deposited in any U. S. Post Office and send certified or registered mail, return receipt requested, or (b) by a nationally recognized overnight carrier.

- i. Notice to the Authority shall be addressed to:

Chief, Administration and Corporate Performance  
Jacksonville Port Authority  
Post Office Box 3005  
Jacksonville, FL 32206-0005

With copy to: Office of General Counsel  
Attn: Government Operations  
117 West Duval Street, Suite 480  
Jacksonville, FL 32202

ii. Notice to the Lessee shall be addressed to:

TraPac Jacksonville, LLC  
 c/o Ceres Terminal Holdings LLC  
 565 Marriott Drive, Suite 400  
 Nashville, TN 37214  
 Attn: Craig Mygatt, CEO

Section 23.8. Place of Payment.

Payments required pursuant to this Agreement shall be made by the Lessee to:

Lockbox:	Jacksonville Port Authority PO Box 947820 Atlanta, GA 30394-7820 Lockbox number: 865820
ACH: Bank:	Wells Fargo Bank, N.A. 1 Independent Drive Jacksonville, FL 32202
Account #:	4613062413
Account Name:	Jacksonville Port Authority Concentration Account
Wire ABA:	121000248

Section 23.9. Headings.

The headings of the articles and sections of this Agreement are included only as a matter of convenience and for reference and in no way define or limit the scope or intent of the provisions of this Agreement. They shall not be construed to affect the provisions of this Agreement or to define or limit the interpretation or construction of this Agreement.

Section 23.10. Counterparts.

This Agreement may be signed in any number of counterparts, each of which shall be deemed an original so long as it bears the signature of the authorized representatives of both parties.

Section 23.11. Independent Contractor.

The parties hereto agree that the Lessee is an independent contractor and as such is not subject to the direction or control of the Authority except that the Lessee shall be required to comply at all times with the Authority's general rules and regulations governing the use of the Terminal Facilities that are applicable to all tenants of the Authority. This Agreement shall not be construed so as to establish a joint venture or partnership between the parties hereto.

Section 23.12. Non-Discrimination.

The Lessee agrees that it shall use the Premises in compliance with all non-discrimination requirements imposed by any applicable federal, state or local law. The Lessee also agrees that it will not

discriminate against any employee or applicant for employment because of race, religion, color, creed, sex, age, national origin, disability, veteran or family status neither will it discriminate in hiring nor fail to make reasonable accommodation for qualified disabled employees.

Section 23.13. Eminent Domain.

(a) If any part of the Premises is taken under power of eminent domain or by condemnation (collectively, "Condemnation") by any governmental authority during the Term of this Agreement, then, subject to paragraph (b) below, this Agreement shall be amended to exclude the part so Condemned from the Premises; and, notwithstanding anything to the contrary contained herein, the Lessee's obligation to pay Rent shall not be abated or otherwise effected by any such Condemnation, and the Lessee waives the provisions of any statute or law now or hereafter in effect contrary to such obligation of Lessee as herein set forth or which releases Lessee therefrom.

(b) If the parties mutually agree that the part of the Premises so taken causes the Premises to be no longer commercially viable for the Lessee's operation, the Lessee shall have the option to terminate this Agreement by providing written notice of the exercise of such option to the Authority within 90 days of the order of Condemnation and by paying the amounts and taking the actions described in paragraph (c) below. If the parties do not agree that the remaining Premises are no longer commercially viable due to the partial Condemnation, then the parties shall enter into the dispute resolution procedures set forth in Article XX above.

(c) If the Lessee exercises its option to terminate this Agreement as provided in paragraph (b) above, all compensation awarded upon the Condemnation of the Lessee's interest in the Premises (or any part thereof), including Lessee's improvements to the Premises, if any (but excluding Lessee's cranes), shall be applied as follows: (i) first, to the payment of all charges and amounts then due and payable by Lessee under this Agreement; and (ii) second, any remainder to the Lessee. Regardless of the amount of such compensation awarded, as a condition precedent to the termination of this Agreement, the Lessee agrees that it shall pay to the Authority all other charges and amounts then due and payable by Lessee under this Agreement.

(d) If the Lessee does not exercise its option to terminate this Agreement as provided in paragraph (b) above, all such compensation awarded for the Condemnation of the Lessee's interest in the Premises (or any part thereof), including Lessee's improvements to the Premises, if any (but excluding Lessee's cranes), under the Condemnation shall be applied as follows: (i) first, to the payment of all charges and amounts then due and payable by Lessee under this Agreement; and (ii) second, any remainder to the Lessee.

(e) The Lessee shall have no right to share in any Condemnation award made to the Authority compensating the Authority for its ownership interest in the Premises. The Lessee may seek apportionment of such award based on its then-fair market value of leasehold interest (including the unamortized value of any Improvements or other property paid for by the Lessee), subject, however, to Lessee's obligations to repay the sums identified in paragraph (c) or paragraph (d) above, as the case may be. In addition to the foregoing, the Lessee may seek an independent claim as available pursuant to law against the Condemning authority for such claims specifically relating to the Lessee's interest in the Premises (including without limitation, business damages, goodwill, relocation expenses, or any other claim of Lessee so long as none of the foregoing reduces the award otherwise allocable to the Authority). The distribution of compensation awarded as aforesaid shall not affect Lessee's continuing use of such portion of the Premises not Condemned, nor such portion of the term not affected by such Condemnation.

Section 23.14. Warranties and Representations.

(a) The Lessee warrants and represents that it has corporate power to enter into this Agreement and to perform all acts required to be performed by the Lessee and that its execution and delivery have been duly authorized by all necessary corporate action.

(b) The Authority warrants and represents that it has corporate power to perform all acts required of it by this Agreement and that its execution and delivery have been duly authorized by all necessary corporate action. The Authority further warrants and represents that it is empowered to lease the Premises and related facilities to the Lessee and to grant the Lessee all of the rights, licenses and privileges contemplated herein.

Section 23.15. Force Majeure.

Except as otherwise provided in this section, neither the Authority nor the Lessee shall be deemed to be in breach of this Agreement if either party is prevented from performing any obligations required of it hereunder, by reason of strikes, boycotts, shortages of materials, labor disputes, embargoes, shipwrecks or obstructions to navigation, acts of God, acts of public enemy, acts of superior governmental authority, floods, riots, rebellion, windstorm, hurricane, pandemic, quarantine order or any other similar circumstances for which it is not reasonably responsible and which is not within its control ("Force Majeure"); provided that nothing stated in this paragraph shall relieve the Lessee of its obligation to pay Rent (subject to abatement of the Minimum Annual Guarantee described in the following paragraph).

If the Premises cannot be used for the purposes contemplated by this Agreement for reasons of Force Majeure, the Minimum Annual Guarantee payable by the Lessee for such period shall be abated commencing on the thirtieth day after commencement of the Force Majeure in the same proportion that the capacity of the facility for its terminal use is diminished, and such abatement shall be applicable until such condition ceases. If the berth is destroyed or fully unusable because of any such Force Majeure the capacity of the facility shall be deemed to be zero unless Lessee continues to make use of the portion of the Premises in which event the capacity of the facility for marine terminal uses as above set forth shall be applicable to determine the level of abatement during such continued use. In the event of any such compensation abatement the Authority shall have the right to use the portion or portions of the Premises to which said abatement applies or to assign the use of said portion or portions of the Premises to third parties during the period of such abatement.

Section 23.16. Quiet Enjoyment. The Authority covenants that, if and as long as the Lessee shall faithfully perform the agreements, terms, covenants and conditions hereof, the Lessee and any Person who lawfully and in conformity with the provisions hereof claims through or under the Lessee shall and may peaceably and quietly have, hold and enjoy the Premises, subject to the terms and conditions of this Agreement, for the term hereby granted without molestation or disturbance by or from the Authority or any other person claiming through or under the Authority. This covenant shall be construed as a covenant running with the Land, to and against successors to the Authority's interest in the lease under this Agreement, and is not, not shall it operate or be construed, as a personal covenant of the Authority.

Section 23.17. Governing Law; Venue.

This Agreement is to be read and construed in accordance with the laws of the State of Florida. Any disputes relating to this Agreement must be resolved in accordance with the laws of the State of Florida. Venue for any action arising under this Agreement shall be in the courts vested with jurisdiction for Duval County, Florida.

Section 23.18. Liens and Encumbrances.

Subject to Article XVIII hereof, the Lessee agrees to keep the Premises free and clear of all liens and encumbrances arising or growing out of the use and occupancy of the Premises by the Lessee, its agents, contractors and subcontractors. At Authority's request, Lessee shall furnish the Authority with written proof of payment of any item which would or might otherwise constitute the basis for such lien on the Premises if not paid.

Section 23.19. 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 the Duval County public health unit.

Section 23.20. Asbestos.

Asbestos is an incombustible, chemical-resistant, fibrous mineral form of impure magnesium silicate often used for fire proofing, electrical insulation and building materials. When the materials containing asbestos are disturbed causing the asbestos to flake and the asbestos fibers to become airborne, the fibers can be inhaled causing serious health risks. In the event any renovations, changes, alterations or improvements are made to the Premises which would disturb or involve materials in the Premises containing asbestos, all federal, state and local laws involving the removal of asbestos shall be followed.

Section 23.21. Construction.

Both parties acknowledge that they have had meaningful input into the provisions and conditions contained in this Agreement. Therefore, any doubtful or ambiguous provisions contained herein shall not be construed against the party who physically prepared this Agreement.

Section 23.22. Non-Licensed Spectrum Devices.

Lessee agrees that it will consult and notify Authority of additions of non-licensed spectrum devices within Authority's property. These devices include wireless access points, RFID systems and cordless phones utilizing 900 MHz, 2.4 GHz and 5.8 GHz spectrum. The Authority will document and coordinate usage of these frequencies in an effort to provide maximum usability for both tenants and Authority. Notification of additions or removal of RF frequency devices should be forwarded to Authority's Director of Information Technology who will respond within ten (10) business days to acknowledge and permit usage; provided that the intended usage does not interfere with other tenants or Authority initiatives. Authority will provide for an annual RF survey. The results of this survey will be made available to Authority tenants to allow for design and future initiatives.

Section 23.23. Survival.

Any obligations and duties that by their nature extend beyond the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement and remain in effect. Without limiting the foregoing, all obligations for the payment of fees or other sums accruing up to the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.

Section 23.24. Entire Agreement.

The parties hereto understand and agree that this instrument contains the entire agreement between the Authority and the Lessee for the use of the Premises and/or the Terminal Facilities by the Lessee. The parties understand and agree that neither party nor its agents have made any representation or promise with respect to this Agreement except as expressly set forth herein; and that no claim or liability shall arise for any representations or promises not expressly stated in this Agreement. Any other written or oral agreement regarding the Premises is expressly nullified upon the execution of this Agreement unless otherwise specifically provided herein.

[The remainder of this page is blank intentionally;  
the signature page(s) follow.]



IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly authorized representatives as of the date first written above.

Signed, sealed and delivered  
in the presence of:

WITNESS:

Jacksonville Port Authority, as Lessor

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: Eric Green  
Title: Chief Executive Officer

\_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Office of General Counsel

WITNESS:

TraPac Jacksonville, LLC, as Lessee

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: Craig Mygatt  
Title: Chief Executive Officer

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT A**  
DESCRIPTION OF PREMISES

*[See attached.]*

**EXHIBIT B**  
**TERM AND SCHEDULE OF FEES AND CHARGES**

I. **TERM:** The Term of this Agreement shall commence on March 1, 2022 (the Effective Date) and terminate at midnight February 28, 2042.

II. **RENT:** Lessee shall pay the Authority premises rental fees as follows. All premises rental fees are subject to Florida State Sales Tax:

<b>Contract Year</b>	<b>MAG</b>	<b>Additional Rent</b>
Yr. 1 – 2022	\$ 700,000	
Yr. 2 – 2023	\$ 700,000	
Yr. 3 – 2024	\$1,400,000	
Yr. 4 – 2025	\$2,000,000	+ 10% of Adjusted EBITDA
Yr. 5 – 2026	\$2,200,000	+ 10% of Adjusted EBITDA
Yrs. 6-10 – 2027-2031	\$2,200,000 + Annual CPI	+ 20% of Adjusted EBITDA
Yrs. 11-20 – 2032-2041	\$2,200,000 + Annual CPI	+ 25% of Adjusted EBITDA

By way of example, if in Contract Year 4 (2025) the Net Operating Income of the Lessee attributable to the Terminal Facilities is \$9,000,000, and the add-backs contemplated by clause (b) of the definition of Adjusted EBITDA are \$1,000,000 in the aggregate, then the Adjusted EBITDA for such Contract Year would equal \$8,000,000, calculated as (a) \$9,000,000 of Net Operating Income, plus (b) \$1,000,000 of add-backs, minus (c) \$2,000,000 of MAG for such Contract Year = \$8,000,000 of Adjusted EBITDA, and the Additional Rent for such Contract Year (and payable following the end thereof in accordance with Section 5.2) would be \$800,000, calculated as (\$8,000,000 (Adjusted EBITDA) x 0.10 = \$800,000 of Additional Rent payable to the Authority. The total amount of the Rent for such Contract Year would be equal to \$2,000,000 (MAG) + \$800,000 (Additional Rent) = \$2,800,000 (Rent).

III. **ANNUAL INCREASE IN FEES:** On January 1, 2027 and on January 1 of each Contract Year thereafter throughout the Term of this Agreement, the Minimum Annual Guarantee shall be increased by the same percent of increase that occurred in the Consumer Price Index (“CPI”) for the twelve-month period that ended three (3) months just prior to January 1. The percent of increase in the CPI for this twelve-month period will be computed utilizing the index for Urban Wage Earners and Clerical Workers 1982-84 = 100, All Items, as published by the Bureau of Labor Statistics of the U. S. Department of Labor or any successor agency. This annual increase in fees shall be self-executing and shall automatically take effect on March 1 of each Contract Year starting with March 1, 2027, without the necessity of any formal amendment being made to this Agreement in order to implement an increase. If there has been a negative fluctuation in the CPI at the time an annual increase would have otherwise been implemented, such negative fluctuation shall not be used to reduce the amount of any fees previously paid by Lessee and therefore the ensuing year, Lessee shall pay fees and charges calculated according to the same rates that were in effect for the previous year. If the CPI becomes unavailable or is revised, a substitute shall be used to obtain substantially the same results as would be obtained if the CPI had not been discontinued or revised.

IV. **OTHER FEES AND CHARGES:** Any other fees and charges due and payable to the Authority by the Lessee, not stipulated by this Agreement, shall be assessed and handled in accordance with the Authority’s published tariff or its reissue.

V. OTHER RULES AND REGULATIONS: Unless stated otherwise in the Agreement, all applicable rules and regulations stipulated in the Authority's published tariff or its reissue shall apply to Lessee's operations on the Terminal Facilities.

**EXHIBIT C**  
**SCHEDULE OF INSURANCE REQUIREMENTS**  
**FOR LESSEE**

Prior to commencement of operations or occupation of the Premises, Lessee must have procured the insurance coverage as follows:

**I. WORKERS COMPENSATION/EMPLOYERS LIABILITY:**

- |    |         |                       |                   |
|----|---------|-----------------------|-------------------|
| a. | Part I  |                       | State Requirement |
| b. | Part II | Each Accident         | \$500,000         |
|    |         | Disease-Policy Limit  | \$500,000         |
|    |         | Disease-Each Employee | \$500,000         |
- c. In addition to coverage for the Florida Workers' Compensation Act, coverage will be for the Longshore and Harbor Workers' Compensation Act.

**II. COMMERCIAL GENERAL OR MARINE LIABILITY:**

- a. The Authority shall be named and endorsed as an additional insured.
- b. Combined Single Limit of Liability for Personal and Bodily Injury and Property Damage including Fire Legal Liability as follows:
- |                 |             |
|-----------------|-------------|
| Each Occurrence | \$5,000,000 |
|-----------------|-------------|

**III. COMPREHENSIVE AUTOMOBILE LIABILITY:** Coverage shall include all owned, non-owned or hired automobiles.

Combined Single Limit of Liability	\$1,000,000
------------------------------------	-------------

**IV. ALL-RISK, SPECIAL FORM PROPERTY INSURANCE:** Coverage shall be on a replacement cost basis for the Improvements, the Equipment, personal property and contents and/or cargo under Lessee's care and custody. All JAXPORT owned leased buildings and equipment will be insured on a replacement cost basis, from April 1, 2022, with values approved by Risk Management, JAXPORT will be added as a loss payee for any losses to any JAXPORT owned leased buildings and equipment.

**V. TERMINAL OPERATORS AND STEVEDORES LIABILITY:** Lessee shall carry Terminal Operator's and Stevedore's Liability Insurance in an amount of not less than \$5,000,000 per occurrence.

**VI. POLLUTION LEGAL LIABILITY:** LESSEE shall carry Pollution Legal Liability Insurance in an amount no less than \$30,000,000 per incident/aggregate for bodily injury, property damage, business interruption and extra expense covering process, operations and transportation/vehicles, loading and unloading as well as gradual release of unknown pollutants.

**VII. UMBRELLA LIABILITY INSURANCE:** \$25,000,000 umbrella policy to the foregoing on form basis set forth in this Exhibit. The umbrella policy shall not schedule Pollution Liability.

VIII. CLUB PLACEMENT: The foregoing may be placed with a club subject to limits of insurance no less than \$30,000,000 for third party liabilities. Sub-limits, if any, shall be declared on the evidence of insurance.

**Note:**

- A waiver of subrogation endorsement is required for all coverages provided.
- Authority does not represent that coverage and limits will necessarily be adequate to protect Lessee and such coverage and limits shall not be deemed as a limitation on Lessee's liability under the indemnities provided to Authority in this contract.

**EXHIBIT D**  
MEMORANDUM OF AGREEMENT  
BETWEEN JACKSONVILLE PORT AUTHORITY AND  
TRAPAC JACKSONVILLE, LLC, FOR IMPLEMENTATION OF SEAPORT SECURITY IN  
ACCORDANCE WITH THE MARITIME TRANSPORTATION SECURITY ACT, SECTION 311.12,  
FLORIDA STATUTES AND THE AUTHORITY'S SECURITY PLANS

This Memorandum of Agreement (this "MOA") is effective as of March 1, 2022 (the "Effective Date") by and between JACKSONVILLE PORT AUTHORITY, a body politic and corporate created under Chapter 2004-465, Laws of Florida (the "Authority"), and TRAPAC JACKSONVILLE, LLC, a company authorized to do business in Delaware (together with any successor thereto, the "Lessee"). Authority and Lessee are each referred to herein as a "Party" and collectively, as the "Parties." Capitalized terms not otherwise defined in this MOA shall have the meanings ascribed to such terms in the Agreement (hereinafter defined).

1. DEFINITION OF LEASE: The Authority and Lessee entered into that certain Operating and Lease Agreement with an Effective March 1, 2022 (the "Lease"). This MOA is supplemental to the Lease terms and, to the extent an express and direct conflict exists between a term of the MOA and a term of the Lease, the Lease term will control.
2. BACKGROUND: The Lease Premises are governed by 33 CFR Part 105, Code of Federal Regulations, which requires a Facility Security Plan ("FSP") designed to provide adequate and scalable security to address changing security threats be in place to mitigate risk associated with any act that threatens the security of personnel, the facility, or the public. The Authority, as a Public Seaport under Section 311.12, Florida Statutes, is required to develop and implement comprehensive seaport security plans that address all aspects of Section 311.12, Florida Statutes and the Standards contained therein. The foregoing statutory requirements are incorporated into the Lease, Article XIX, by reference.
3. REGULATED FACILITY: Pursuant to the Lease, Lessee is a tenant of the Authority with the Premises, including the Terminal Facilities, as defined in the Lease, located on Dames Point Marine Terminal at 9834 New Berlin Rd., Jacksonville, FL 32226. Lessee operates a container terminal receiving vessels from various lines for the purpose of discharging and loading cargo, cargo staging and distribution, and is responsible for all cargo operations occurring on the Premises.
4. PURPOSE: To implement the security obligations of the Authority and Lessee pursuant to the Lease, Lessee and the Authority agree to the terms set forth in this MOA. The Authority, in coordination with

Lessee, has identified and implemented facility security measures that are intended to satisfy current tenant security requirements under 33 CFR Part 105, and Section 311.12, Florida Statutes.

5. COMPLIANCE: The U.S. Coast Guard has regulatory oversight for compliance with 33 CFR Part 105. Florida Department of Law Enforcement has regulatory oversight for compliance with Section 311.12, Florida Statutes. Authority hereby agrees to serve as Lessee's Facility Security Officer ("FSO") and to perform the duties set forth in Paragraph 6A of this MOA. However, nothing herein alters or supersedes Lessee's responsibility for compliance with applicable regulations.

6. RESPONSIBILITIES:

A. In consideration of the Lease, and Lessee's obligations herein, including payment of the sums agreed to in this MOA, the Authority will:

- (1) Perform the FSO duties as outlined in the Authority's approved FSP for the Premises. The Authority will maintain coordination with Lessee's Management (as hereafter defined in Paragraph 8) on Lessee security issues as necessary to maintain the appropriate level of security.
- (2) Provide scheduled security patrols for the Premises using Authority's security personnel or contract security personnel.
- (3) Take such steps so as to designate the Premises as a "Restricted Access Areas" (RAA) under Section 311.12, Florida Statutes, and 33 CFR Part 105 and implement appropriate access control security measures, all as defined in the Authority's FSP; however, all cargo management and inspection duties remain the sole responsibility of Lessee.
- (4) Provide for security patrols through assigned security of piers, perimeter, and common areas in conjunction with Lessee personnel during cargo operational/non-operational periods.
- (5) Implement personnel and vehicle access control, including the identification and screening of personnel and vehicles seeking to enter Restricted Access Areas as defined in the Authority's FSPs. The Authority, as FSO, will implement security measures to ensure monitoring of designated restricted areas within the Premises, including shore areas immediately adjacent to vessels moored at the port or the Premises.
- (6) Implement, on an as-needed basis, communications with vessels through a Vessel Security Brief ("VSB"), or a Declaration of Security ("DOS") as per 33 CFR 105 depending on the then current MARSEC. As more specifically set forth in the FSP for the Premises, which is incorporated by reference, security requirements implemented will include, as appropriate:
  - i. Means of raising alarm agreed between vessel and vessel facility.



- ii. Vessel/facility reporting or communicating any noted security non-conformities and notification of appropriate government agencies.
- iii. Passing on port specific security information to vessel and notification procedures established (specifically the person who contacts local authorities, National Response Center, and Coast Guard).
- iv. Maintaining responsibility for searching the berth/pier directly surrounding the vessel.
- v. Maintaining responsibility for monitoring and/or performing security of water surrounding Premises.
- vi. Verifying increased Maritime Security (“MARSEC”) level and the implementation of additional protective measures.
- vii. Providing vessel security personnel in conjunction with the Authority facility perimeter access control procedures, check identification of passengers and crew, vendors or other personnel authorized to enter the vessel.
- viii. Ensuring screening of hand-carried items, and baggage brought onto the vessel by vessel security personnel in conjunction with screening conducted by the Authority security personnel at the Authority’s designated “Access Control” points.
- ix. Ensuring vessel stores are screened by vessel security personnel or the Authority’s security personnel when vessel security personnel are unable or unwilling to carry out this task.
- x. The Authority will provide to Lessee a copy of any applicable MOA, and excerpts from the Authority’s FSP, as deemed necessary for Lessee security actions.
- xi. Manage and direct security force personnel assigned to the Premises whenever conflict exists as to security matters between the Authority and Lessee and this conflict cannot be resolved to the satisfaction of the FSO and an assigned Lessee representative, the JAXPORT Director of Public Safety and Security will be notified, and shall have the authority for final resolution.

B. In consideration of the Lease, and the Authority’s agreement to assist Lessee in complying with and implementing its security obligations under the Lease, Lessee will:

- (1) Ensure only authorized cargos are accepted for import/export through coordination including, but not limited to, vessel crews, drivers, stevedores, agents, and checkers.
- (2) Ensure “Certain Dangerous Cargos” or “High Value Cargos” are identified to the Authority’s FSO, including identification of the type, and location for storage of said cargo.
- (3) Ensure Lessee compliance with 33 CFR 126 for handling of dangerous cargo at waterfront facilities.
- (4) Coordinate shore leave directly, or through a third party (such as an agent or other) for vessel personnel

including a Transportation Worker Identification Credential (“TWIC”) approved escort for movement of crew members to and from vessel.

- (5) Ensure all persons entering the Authority’s controlled access points on to the Premises will be in possession of an approved Authority credential, and TWIC, or be under escort of a TWIC holder as required (Authority’s Security personnel may conduct TWIC escorts as requested and based on personnel availability, which may be provided at an additional cost to Lessee).
  - (6) Promptly pay the Authority all costs (including personnel, equipment, and administrative costs) related to the Authority’s agreement to assist Lessee with complying with Lessee’s security obligations under the Lease. This shall include, without limitation, the payment of all personnel costs related to any orders for “Hold Onboard” vessel crew members who are not cleared to depart vessel, and all other assigned security personnel, whether from the Authority, or from contract or law enforcement.
  - (7) Provide physical security barriers, signage, and lighting in accordance with 33 CFR Part 105, and Section 311.12, Florida Statutes.
  - (8) Manage their operation to mitigate traffic safety concerns on public access roadways connected to Lessee’s facility including the payment for additional temporary security personnel to address traffic safety concerns as reasonably identified by the Authority’s FSO.
  - (9) Permit access to assigned security personnel (including the Authority, Contract and Law Enforcement) at all times to the Premises for the purpose of implementing this MOA.
7. MARSEC SHIFT: In the event of a change in MARSEC levels from MARSEC ONE to MARSEC TWO or MARSEC THREE, or as deemed necessary by the Captain of the Port, or the Authority’s Director of Public Safety and Security, additional security personnel, posts and equipment (e.g., waterside security vessel, Bomb K-9, etc.) may become necessary to ensure the safety of the in-port cargo vessels. Specifically, in MARSEC TWO and higher, the Authority will ensure access points will be secured or manned by contract security, the Authority’s Port Public Safety Officers, and/or sworn law enforcement. Lessee Management (as hereafter defined in Section 8 below) will be notified prior to deployment of additional security personnel when additional cost will be billed to Lessee. If advance notification of a change cannot be made, it will be communicated as soon as practical.
8. MANAGEMENT NOTICES: The Authority’s Director of Public Safety shall have authority to act as the Authority’s representative in all security operational matters covered by this MOA. Lessee’s senior operations manager shall act as Lessee’s representative in all matters covered by this MOA. All inquiries, requests, instructions, authorizations and other communications with respect to the matters covered by this

MOA will be made to the Authority's representative or Lessee's representative, as appropriate. Either party may change its representative under this MOA at any time by giving prior written notice to the other party. Nothing in this section shall be deemed to preclude the Authority's representative and Lessee's representative from including or delegating responsibility for matters set forth in this MOA to financial or legal personnel, subject to the requirements of applicable law concerning confidentiality of security plans.

9. COST AND REIMBURSEMENT:

- a. Nothing herein shall prevent the Authority from assessing a security tariff in lieu of Lessee's payment of the costs invoiced by the Authority. All billing for payment or reimbursement of costs will occur on a monthly basis pursuant to the procedures, terms and conditions set forth in the Lease, and shall be paid within ten days of receipt of the invoice. Authority will invoice and Lessee will pay for the reasonable and documented costs associated with Authority's services under this MOA, which are currently estimated for FY2022 at \$331,158. Lessee shall compensate the Authority each month an amount equal to 1/12 of the annual costs associated with the Authority's services becoming due and payable in such Contract Year. For purposes of the first Contract Year, the Lessee shall pay 1/12 of \$331,158 each month. The Authority and Lessee shall annually reconcile the actual costs, forty-five (45) days following the end of each Contract Year, Authority will issue a "true-up" statement to the Lessee showing actual costs incurred. This MOA will include an adjustment commensurate with increased labor costs which will be reviewed on an annual basis. The Authority will provide the following positions and services, to be reimbursed by Lessee for the following functions:
  - (1) Facility Security Officer (1 position)
  - (2) Public Safety Compliance Officer (1 position)
  - (3) Communications Technician (1 position)
  - (4) Public Safety Vehicle
  - (5) City Supported Radios: 9 contract security radios, 2 JAXPORT security radios (PSCO handheld and vehicle radios) and 4 operation's security radios. The annual City of Jacksonville access and sustainment fee is currently \$19.52 per radio per month and it is revised on an annual basis by the City of Jacksonville.
  - (6) Physical security costs which include gate locks, signs, CCTV recording, network and infrastructure items. Additional physical security costs will be billed on an as-needed basis only if required in Authority's reasonable judgement and may include, but are not limited to, additional gate locks, signs, CCTV recording, network and infrastructure, phones and computers.
- b. Contract Security costs will be administered as a pass-through expense to Lessee. Lessee will

reimburse the Authority for specific contract security invoices paid for positions allocated to Lessee under the Authority's main security contract. The security contractor typically invoices on a bi-weekly basis. The current estimated annual cost for pass-through contract security services is \$700,000. The Authority will assess a 2% per bi-weekly invoice administrative fee to cover the cost of managing the security contract for Lessee. Bi-weekly invoices to Lessee must be paid within ten (10) days receipt of the invoice.

The Authority reserves the right to and bill for sworn law enforcement in place of PSCOs when deemed necessary in the Authority's reasonable discretion and after consultation with the Lessee Representative. Numbers and hours for assigned contract personnel may change based on threat, terminal operations, and or as necessary to ensure compliance with 33 CFR Part 105, and Section 311.12, Florida Statutes. Additionally, the Authority's JSO officers may enter the Premises during the course of their official duties, in place of PSCOs or in augmentation of same. The Authority's FSO and PSCOs are assigned duties in accordance with the Authority's overall seaport security and emergency preparedness mission; duties include, but are not limited to waterside marine patrols, as well as combined drug, and or antiterrorism operations at any of the Authority's facilities in conjunction with local, state and federal agencies,

10. CONFLICT: As set forth above, this MOA is not intended nor shall be construed to change the terms of the Lease and to the extent this MOA expressly and directly contradicts the Lease terms, the terms of the Lease shall control.
11. GOVERNING LAW; VENUE: The laws of the State of Florida shall govern this MOA and venue for any action arising under this MOA shall be in the jurisdictional courts in and for Duval County, Florida.
12. GRANTS: Nothing herein shall be deemed to prohibit the Authority's application for grants (or other third-party funds), nor prohibit the Authority's compliance with the requirements of such grant programs. If the operations of the Lessee as contemplated in the Lease are materially and adversely affected by the Authority's grant requirements, then the Parties agree to confer regarding the matter, and to the extent feasible, cooperate in the endeavor with the consent of both Parties.
13. EFFECTIVE DATE: This MOA shall take effect on the Effective Date established at the beginning of this MOA, and shall continue in full force and effect until any termination or the expiration of the Lease; provided, however, that this MOA may be terminated by either party upon ninety (90) days written notice. In the event of such termination by either party, Article XXI of the Lease shall govern the rights and responsibilities of the Parties regarding compliance with security issues, and the Authority reserves all rights under the Lease to assess a security tariff against Lessee. This MOA will be reviewed as needed, and any interim amendment shall be signed

by the respective Parties.

14. CHANGE IN LAW: To the extent any existing applicable law related to the security issues covered in this MOA are amended, or new applicable security laws are created, the Parties agree to cooperate in good faith to amend this MOA and to implement and comply with such amendment of new law.

The Parties hereto have executed this Memorandum of Agreement as of the Effective Date as set forth herein.

Signed, sealed and delivered in the presence of:

JACKSONVILLE PORT AUTHORITY, a body politic and corporate created and existing under Chapter 2004-465, Laws of Florida

WITNESSES:

By: \_\_\_\_\_

Name: Eric Green

Title: Chief Executive Officer

\_\_\_\_\_  
Print Name:

\_\_\_\_\_  
Print Name:

APPROVED AS TO FORM:

\_\_\_\_\_  
Office of General Counsel

WITNESSES:

TRAPAC JACKSONVILLE, LLC, as Lessee

By: \_\_\_\_\_

Name:

Title:

\_\_\_\_\_  
Print Name:

\_\_\_\_\_  
Print Name:

EXHIBIT E  
**MANDATORY PROVISIONS OF AGREEMENT WITH AUTHORITY INVITEE**

Each and every Authority Invitee shall enter into an agreement with the Authority and the Lessee prior to use of the Berthing Areas or other areas on the Terminal Facilities. The Lessee shall be given the opportunity to review and approve any such agreement prior to its execution. Any such agreement should contain, at a minimum, the following provisions.

**1. Area of the Terminal Facilities to be Used by Authority Invitee.** The area or areas on the Terminal Facilities to be used by the Authority Invitee shall be clearly identified in the agreement. Specifically, Berthing Areas shall be defined and any other areas on the Terminal Facilities to be used by such Authority Invitee shall also be identified.

**2. Periods of Use.** The dates and times the Authority Invitee will use any such area of the Terminal Facilities shall be identified in the agreement.

**3. Agreement Not to Unreasonably Interfere.** In return for the Authority and the Lessee permitting Authority Invitee to use the Berthing Area(s) or other identified areas of the Terminal Facilities for non-containerized cargo during periods of non-use or idle dockage by the Lessee, the Authority Invitee must agree to not unreasonably interfere with or unreasonably delay Lessee's business operations at the Terminal Facilities.

**4. Indemnification.** Each and every Authority Invitee must agree, to the fullest extent permitted by law, to indemnify, hold harmless, and defend the Lessee (including its affiliates, parents, subsidiaries and employees) and the Authority at all times after the effective Date of the agreement against:

a. any liability, loss, claim, damages (including punitive damages), settlement payment, cost and expense, interest, award, judgment, diminution in value, fine, fee and penalty, or other charge, other than any Litigation Expenses (as defined in clause (b) below), for personal injury, death, for loss or damage to any and all property, or for any other loss in any way arising out of, incidental to, or in any way connected with any of the following:

(1) the Authority Invitee's use and occupancy of and operations on the Terminal Facilities;

(2) any violation by the Authority Invitee of any of the terms and conditions contained in the agreement between the Authority Invitee and the Authority and the Lessee;

(3) the use by Authority Invitee of any trailer(s), equipment, or vehicle(s) at the Terminal Facilities, including but not limited to (i) the fueling, maintenance, or repair of any trailer, vehicle, or

equipment at the Terminal Facilities or (ii) the discharge or leakage of any Hazardous Substances<sup>1</sup> (including petroleum and petroleum products) at the Terminal Facilities;

(4) any violation by Authority Invitee, or by persons employed or utilized by Authority invitee, of any applicable federal, state, municipal, local law or regulation in the course of Authority Invitee's use and occupancy of and operations at the Terminal Facilities, including, but not limited to any violation of any federal, state, municipal or other local environmental law, ordinance, rule or regulation that leads to an environmental claim or penalty against the Authority and/or the Lessee;

(5) any violation by Authority Invitee, or by persons employed or utilized by Authority Invitee, of any applicable safety and security rules of the Authority and the Lessee in the course of Authority Invitee's use and occupancy of and operations on the Terminal Facilities;

(6) to the extent allowed by law, the negligence of Authority Invitee resulting in injury or death to persons or agents employed by Authority Invitee or to the employees or agents or contractors performing work on behalf of Authority Invitee at the Terminal Facilities

(7) identification of any other reason that would arise out of, be incidental to, or any other way connected to, Authority Invitee's use, occupation, or operations, not covered in clauses (1) through (6) above that may be specific to such use, occupation and operation; and

b. any court filing fee, court cost, arbitration fee or cost, witness fee, and each other fee and cost of investigating and defending or asserting any claim for indemnification under this Agreement, including, without limitation, in each case, attorneys' fees, other professionals' fees, and disbursements (collectively, "Litigation Expenses").

**5. Procedures for Indemnification.** The Lessee and/or the Authority shall promptly notify Authority Invitee and Authority Invitee shall promptly notify the Lessee and the Authority in writing of any claim, event or fact that may give rise to a claim by the Lessee or the Authority against Authority Invitee based on the foregoing indemnification provisions, stating the nature and basis of the claim, event or fact and the amount, to the extent known.

**6. Insurance.** As of the effective date of the Authority Invitee's use, occupation, and operations at the Terminal Facilities, and continuing for so long as Authority Invitee is using, occupying, and operating at the Terminal Facilities, Authority Invitee shall procure and maintain, at its expense, insurance policies of the type and with the minimal limits as stipulated in Exhibit C to the Agreement between the Authority and Lessee.

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<sup>1</sup> "Hazardous Substance" means any substance which at any time shall be listed as "hazardous" or "toxic" in the regulations implementing the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§9601 et seq., the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§6901 et seq., Chapters 376 or 403, Fla. Stat., Chapters 362 or 365, Jacksonville Ordinance Code or which has been or shall be determined at any time by any agency or court to be a hazardous, dangerous or toxic substances regulated under applicable law, including petroleum "Hazardous Substance" shall also include source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. §§3011, et seq., as amended).



**7. Condition of Demised Premises:**

a. The Lessee makes no representations and warranties as to the condition of the Terminal Facilities, including but not limited to the Berthing Areas, and the Lessee assumes no responsibility to maintain the Berthing Areas or other areas of the Terminal Facilities used during the time the Authority Invitee is operating at the Terminal Facilities.

b. The Authority has the authority to monitor the Terminal Facilities through the Lessee's existing security camera system, located at the Terminal Facilities (the "Security System"). The Authority shall have sole responsibility for monitoring that portion of the Terminal Facilities used by the Authority Invitee and the Lessee makes no representations and warranties as to the operation and monitoring of the Security System, and assumes no responsibility for the operation or monitoring of the Security System for purposes of the work performed at the Terminal Facilities by Authority Invitee.



February 10 , 2022

Jacksonville Port Authority  
P.O. Box 3005  
Jacksonville, Florida 32206-005  
Attention: Chief Financial Officer  
Beth McCague

Ladies and Gentlemen:

Reference is made to the Operating and Lease Agreement dated as of August 3, 2005 between Jacksonville Port Authority (the "Authority") and Mitsui O.S.K. Lines, Ltd. ("MOL"), as amended (the "Lease"). Except as otherwise defined in this Agreement, capitalized terms used in this letter shall have the respective meanings ascribed thereto in the Lease.

MOL anticipates that its wholly-owned subsidiary, MOL Holdings (America) Inc., will be entering into an agreement pursuant to which it will transfer all of the outstanding equity interests in TraPac Jacksonville, LLC ("TPJ"), which is the assignee of and lessee under the Lease, to Ceres Terminal Holdings LLC ("Ceres").


MOL and TPJ hereby jointly respectfully request that the Authority consent to the proposed transfer of a Controlling Interest in TPJ to Ceres.

Please acknowledge the consent of the Authority to the transfer of a Controlling Interest in TPJ to Ceres in the space provided below.

Respectfully submitted,

mitsui o.s.k. lines, ltd.

By:   
Norio Abe  
General Manager—Port Projects & Logistics Business Division

TRAPAC JACKSONVILLE, LLC  
  
By: \_\_\_\_\_  
Osamu Sakurada  
President



Consented to as of February \_\_\_\_, 2022:

JACKSONVILLE PORT AUTHORITY,  
a body corporate and politic created and  
existing under the Constitution and Laws  
of the State of Florida

By: \_\_\_\_\_  
Name:  
Title:

Special Board of Directors Meeting - R2022-02-01 Engineering and Construction Update

KEY CAPITAL PROJECTS											
No.	Contract Number	Project Description	Vendor	Scope	Original Contract Amt. (\$)	Approved Change Orders To Date	Total Contract as Amended	Payments to Date	Work Remaining To Invoice	Proposed Change Orders (PCO's)	Remarks
1	AE-1436D	Rehabilitate Wharfs 33 & 34	HDR Eng., Inc.	Engineering Services During Construction BIMT Wharf Reconstruction Phase II	\$1,813,479	\$828,000	\$2,641,479	\$2,432,022	\$209,457	\$0	HDR awarded contract for Services During Construction. HDR is performing on-site daily observation including reports. Their services are critical in answering RFIs to keep the contractor working expeditiously. Change Order #2 increased contract to provide funding for contract completion.
	C-1436C		Manson Construction	BIMT Wharf Rehabilitation Phase II	\$51,021,172	\$510,157	\$51,531,329	\$47,318,273	\$4,213,056	\$0	Manson Construction Co was awarded the construction contract to build Phase 2A and 2B on BIMT wharf. Construction NTP was issued on December 3, 2018. Contract completion date is February 6, 2021. Contractor is behind schedule but making every effort to improve the schedule. Phase 2B Construction: All precast panels have been installed. Deck pours are underway and rebar is being installed for remaining sections. Bollards and fenders are being installed on east end. Electric duct banks have been completed.
2	AE-1658	Upland Dredge Material Management Design & Construction	HDR Engineering	Engineering Design & Services During Construction for Toe Dike at Buck Island	\$340,055	\$58,967	\$399,022	\$355,156	\$43,866	\$0	HDR completed the design documents and will be performing administrative services during construction which includes reviewing submittals, RFIs, change order requests, and monthly inspections.
	C-1737		Branche Diversified Inc.	Upland DMMA Construction Phase 1 - Buck Island	\$3,987,200	\$1,136,500	\$5,123,700	\$4,989,700	\$134,000	\$0	Branche Diversified received a Notice to Proceed on November 24, 2020. Contract duration is 450 calendar days. Change Order #1 added moving an additional 50,000 CY of sand from Toe Dike construction area to Cell A. Branche Diversified has completed the construction of the toe dike and has placed 100% of material in new holding cell. Substantial Completion has been issued. Additional slope grassing/stabilizing is being required.
	C-1737A		Branche Diversified Inc.	Remove Dredge Materials DMMA Cell "B" Buck Island	\$5,950,000	\$2,700,000	\$8,650,000	\$943,197	\$7,706,803	\$0	NTP issued September 21st 2021. Contractor is pumping material to Reed Island. Change Order #1 authorized additional 200,000 CY to be pumped to Reed Island.
3	AE-1611A	Pile Cap & Beam Rehab - TMT	HDR Engineering, Inc.	Design Services for Pile Jacket Program	\$141,569	\$71,200	\$212,769	\$163,605	\$49,164	\$0	HDR Engineering provided design services and is providing Services During Construction for the pile jacket repair project at Berth 4 at TMT.
	MC-1611		Underwater Mechanix, Inc	Facilities Wide Underwater Pile Cleaning Berth 5	\$867,800	\$486,200	\$1,354,000	\$308,285	\$1,045,715	\$0	Underwater Mechanix is cleaning piles in Berth 5. To date they have cleaned 375 of 694 piles. 160 piles have been inspected and 215 are ready for inspection by JACOBS.
	C-1611		Underwater Mechanix, Inc	TMT Pile Jacket Repair - Berth 4	\$630,299	\$276,985	\$909,284	\$845,354	\$63,930	\$0	Underwater Mechnix, Inc. was awarded the contract to provide pile jacket repairs at TMT Berth 4. CO #3 added one additional pile jacket required. Materials have been received and UMX is proceeding with the installation of the jackets.
AE-1780		JACOBS Engineering Group	Engineering Inspection & Design Services Pile Jacket Repairs Berth 5	\$143,950	\$0	\$143,950	\$51,365	\$92,585	\$0	JACOBS was directed to design the pile jacket repairs on Berth 5 on May 25, 2021. JACOBS inspection team has made one visit and inspected 160 piles to date. Their second inspection visit is scheduled this month.	
4	AE-1588A	Rehabilitate Underdeck Concrete Phase 4	C&ES Construction & Engineering Services	Engineering & Inspection Services for Rehabilitate Underdeck Concrete Phase 4	\$82,440	\$0	\$82,440	\$6,604	\$45,836	\$0	C&ES has been awarded the contract to inspect the underdeck repairs for Phase 4 at TMT.
	C-1588A		Southern Road & Bridge LLC	Rehabilitate Underdeck Concrete Phase 4	\$2,143,244	\$61,776	\$2,205,020	\$563,441	\$1,641,579	\$0	Southern Road & Bridge LLC was awarded the contract to make concrete spill repairs on the underside of the deck at TMT Berths 5-8. This is final phase of underdeck repairs for TMT.
5	AE-1742	Bartram Island Cell C Expansion Design/Permitting	Taylor Engineering, Inc.	Bartram Island DMMA Cell C Concept Development Design & Permitting	\$854,134	\$85,668	\$939,802	\$908,811	\$30,991	\$0	Taylor Engineering has completed surveys and geotechnical investigation. Plans have been completed. FDEP permit has been obtained. Gopher Tortoise relocation agreement has been executed and permit for FWG has been issued. Taylor Engineering will perform gopher tortoise survey and relocation services during the next 90 days.
	C-1795		Branche Diversified Inc.	DMMA Cell C Restoration & Capacity	\$7,775,000	\$0	\$7,775,000	\$0	\$7,775,000	\$0	Branche Diversified was awarded the contract to expand Cell C at Bartram Island. The notice to proceed will be issued after Gopher Tortoises have been relocated.
6	AE-1772	Container Terminal Upgrades - SSA	AECOM Technical Services	Program Management & Inspection Svcs for C-1772 SSA Container Yard Improvements	\$3,215,597	\$0	\$3,215,597	\$0	\$3,215,597	\$0	Program management services are being performed as the contractor is preparing for mobilization. Initial mobilization started at the end of November.
	C-1772		Superior Construction Company Southeast, LLC	SSA JCT Container Yard Improvements	\$48,876,120	\$0	\$48,876,120	\$0	\$48,876,120	\$0	Contractor has mobilized to jobsite. Limerock material is being stockpiled on BIMT. NTP for Construction was issued on 1/10/22. Contractor has milled Phase 1 and has started excavation of subgrade and placement of limerock.

## **Financial Highlights**

### **December 2021**

Container Revenue continues to be a bright spot in 2022 at \$2.266 million and 107,849 TEU's for the month. This revenue level is ahead of same period last year although slightly behind budget. This performance occurred even though two of our domestic carriers missed one full turn of service as each operator took one vessel out of service for annual maintenance at the end of December.

Auto Revenue at \$1.25 million ended on a high note for the quarter. This represented 49,728 auto units which is below budget by 18% but a 20% increase over the last monthly report, November 2021.

Liquid Bulk and Dry Bulk revenue exceeded the same period last year while Breakbulk revenue was short of plan and prior period by 15% and 12% respectively.

Other Operating Income at \$257 thousand was boosted by dockage fees (\$32 thousand) paid by a carrier who chose JAXPORT as the site to reflag one of its ships.

### **EXPENSES**

Total Expenses remain underbudget by \$623 thousand for the month. Salaries and Benefits, while still under budget, have edged up as we took on the full complement of our Security Operations Control center from a third-party provider in late November. Security expenses remain underbudget as our major third-party provider, Allied Universal Services still has 15 unfilled positions. However, the wage increase introduced late fall has slowed their turnover somewhat. Services and Supplies are also under plan by \$14 thousand, the result of two missed ship turns noted above, creating less crane activity. Berth Maintenance Dredge was light in December resulting in a \$374 thousand savings compared to budget.

Overall, we report \$1.212 million in Income Before Depreciation, \$390 thousand over plan and \$256 thousand below prior period.

### **YEAR-TO-DATE**

For the first quarter of the fiscal year, revenue from Container and Breakbulk cargo is trending above the same quarter last year. This is a positive indication our stabilized activity levels will continue.

Expenses remain under plan for the quarter, but above same period prior year. This is largely due to the \$1.6 million dredge expense we experienced in October.

### **BALANCE SHEET**

The Balance Sheet is stable. We ended the month with \$15.9 million in cash. Receivables are turning as normal. Restricted Cash Balances increased to \$11.4 million, the result of an expected ARPA fund payment from the FDOT and the initial cash payment from SSA towards the terminal construction project.

All payables are at normalized levels. In December we made another payment on our outstanding Short-Term loan with the City. The balance is now \$19.5 million. This loan is repaid with Harbor Deepening Funds provided by FDOT.

### **CONCERNS**

Auto imports will continue to be a challenge. Wells Fargo economists reported this week that that "year-over-year, motor vehicle production was down 5.9% in December against the backdrop of massive demand for autos," citing the auto problem continues to be one of supply not demand. We also expect to see some negative impact to container activity levels at the SSA Terminal which begins construction on its modernization project this month.

# VITAL STATISTICS

## DECEMBER FY2022 - Cargo Performance

### CARGO INDICATORS

	Current Month			VARIANCE		YEAR-TO- DATE			VARIANCE	
	Actual	Budget	Prior	Budget	Prior	Actual	Budget	Prior	Budget	Prior
Vessel Calls	133	119	128	12%	4%	361	357	387	1%	-7%
<b>Total Tons</b>	<b>743,080</b>	<b>868,612</b>	<b>842,550</b>	-14%	-12%	<b>2,263,435</b>	<b>2,605,836</b>	<b>2,600,213</b>	-13%	-13%
<b>Total Revenue</b>	<b>\$ 4,395,149</b>	<b>\$4,713,056</b>	<b>\$4,481,327</b>	-7%	-2%	<b>\$13,350,867</b>	<b>\$14,139,168</b>	<b>\$14,360,960</b>	-6%	-7%

### OPERATING REVENUE / STATISTICS

	Current Month			VARIANCE		YEAR-TO- DATE			VARIANCE	
	Actual	Budget	Prior	Budget	Prior	Actual	Budget	Prior	Budget	Prior
Container Revenue	\$2,266,187	\$2,488,061	\$2,189,375	-9%	4%	\$7,042,089	\$7,464,183	\$6,610,027	-6%	7%
Container TEU's	107,849	113,239	115,951	-5%	-7%	323,473	339,717	353,367	-5%	-8%
ICTF Rail Lifts	2,613	1,500	1,203	74%	117%	7,900	4,500	3,865	76%	104%
Auto Revenue	\$1,256,587	\$1,268,377	\$1,324,726	-1%	-5%	\$3,582,153	\$3,805,131	\$4,005,441	-6%	-11%
Auto Units	49,728	60,306	62,010	-18%	-20%	127,808	180,918	184,258	-29%	-31%
Military Revenue	\$12,864	\$83,177	\$14,840	-85%	-13%	\$84,677	\$249,531	\$292,639	-66%	-71%
Breakbulk Revenue	\$293,040	\$344,452	\$332,810	-15%	-12%	\$1,154,595	\$1,033,356	\$1,032,077	12%	12%
Breakbulk Tons	41,065	63,966	60,985	-36%	-33%	204,893	191,898	180,694	7%	13%
Liquid Bulk Revenue	\$146,482	\$124,243	\$130,963	18%	12%	\$418,450	\$372,729	\$360,860	12%	16%
Liquid Bulk Tons	34,248	35,845	42,797	-4%	-20%	112,066	107,536	111,821	4%	0%
Dry Bulk Revenue	\$162,457	\$173,184	\$153,502	-6%	6%	\$442,826	\$519,552	\$484,415	-15%	-9%
Dry Bulk Tons	32,651	67,500	47,908	-52%	-32%	80,680	202,500	179,617	-60%	-55%
Cruise Revenue	\$0	\$0	\$0	0%	0%	\$7,683	\$0	\$0	0%	0%
Cruise Passengers	-	-	-	0%	0%	54	-	-	0%	0%
<b>Total Cargo Revenue</b>	<b>\$4,137,617</b>	<b>\$4,481,494</b>	<b>\$4,146,215</b>	-8%	0%	<b>\$12,732,472</b>	<b>\$13,444,482</b>	<b>\$12,785,459</b>	-5%	0%
<b>Other Revenue</b>	<b>\$257,532</b>	<b>\$231,562</b>	<b>\$335,111</b>	11%	-23%	<b>\$618,395</b>	<b>\$694,686</b>	<b>\$1,575,501</b>	-11%	-61%

**Jacksonville Port Authority**  
**Comparative Income Statement (Unaudited)**  
**For the 3 months ending 12/31/2021**

	Current Month Actual	Current Month Budget	Budget Variance	Prior Year Month Actual	Current YTD Actual	Current YTD Budget	Budget Variance	Prior Year YTD Actual
<b>OPERATING REVENUES</b>								
CONTAINERS	2,266,187	2,488,061	(221,874)	2,189,375	7,042,089	7,464,183	(422,094)	6,610,027
AUTOS	1,256,587	1,268,377	(11,790)	1,324,726	3,582,153	3,805,131	(222,978)	4,005,441
MILITARY	12,864	83,177	(70,313)	14,840	84,677	249,531	(164,854)	292,639
BREAK BULK	293,040	344,452	(51,412)	332,810	1,154,595	1,033,356	121,239	1,032,077
LIQUID BULK	146,482	124,243	22,239	130,963	418,450	372,729	45,721	360,860
DRY BULK	162,457	173,184	(10,727)	153,502	442,826	519,552	(76,726)	484,415
CRUISE	-	-	-	-	7,683	-	7,683	-
OTHER OPERATING REVENUE	257,532	231,562	25,970	335,111	618,395	694,686	(76,291)	1,575,501
<b>TOTAL OPERATING REVENUES</b>	<b>4,395,149</b>	<b>4,713,056</b>	<b>(317,907)</b>	<b>4,481,327</b>	<b>13,350,867</b>	<b>14,139,168</b>	<b>(788,301)</b>	<b>14,360,960</b>
<b>OPERATING EXPENSES</b>								
SALARIES & BENEFITS	1,644,270	1,661,811	(17,542)	1,496,186	4,615,688	4,807,837	(192,149)	4,363,406
SERVICES & SUPPLIES	398,237	412,401	(14,164)	307,395	1,120,463	1,237,203	(116,740)	918,196
SECURITY SERVICES	341,352	450,181	(108,829)	418,356	1,108,482	1,350,543	(242,061)	1,166,157
BUSINESS TRAVEL AND TRAINING	19,901	48,065	(28,164)	17,699	45,397	144,195	(98,798)	44,445
PROMO,ADV,DUES & MEMBERSHIPS	41,727	61,193	(19,466)	39,378	125,182	183,579	(58,397)	108,960
UTILITY SERVICES	38,725	65,162	(26,437)	55,366	156,079	195,486	(39,407)	167,029
REPAIRS & MAINTENANCE	133,669	173,122	(39,453)	158,471	465,228	519,366	(54,138)	358,925
CRANE MAINTENANCE PASS THRU	(42,746)	(37,500)	(5,246)	(24,676)	(111,403)	(112,500)	1,097	(80,556)
BERTH MAINTENANCE DREDGING	70,852	444,596	(373,744)	858	1,930,684	1,333,788	596,896	704,319
MISCELLANEOUS	22,968	13,595	9,373	15,384	31,239	40,785	(9,546)	43,601
<b>TOTAL OPERATING EXPENSES</b>	<b>2,668,954</b>	<b>3,292,626</b>	<b>(623,672)</b>	<b>2,484,416</b>	<b>9,487,039</b>	<b>9,700,282</b>	<b>(213,243)</b>	<b>7,794,481</b>
<b>OPERATING INC BEFORE DS AND DEPR</b>	<b>1,726,194</b>	<b>1,420,430</b>	<b>305,765</b>	<b>1,996,911</b>	<b>3,863,828</b>	<b>4,438,886</b>	<b>(575,058)</b>	<b>6,566,479</b>
<b>NON OPERATING INCOME</b>								
INVESTMENT INCOME	1,390	725	665	584	3,209	2,175	1,034	2,549
SHARED REVENUE FROM CITY	804,954	803,516	1,438	821,490	2,424,938	2,410,548	14,390	2,481,399
<b>TOTAL NON OPERATING ITEMS</b>	<b>806,344</b>	<b>804,241</b>	<b>2,103</b>	<b>822,074</b>	<b>2,428,147</b>	<b>2,412,723</b>	<b>15,424</b>	<b>2,483,949</b>
<b>NON OPERATING EXPENSE</b>								
DEBT SERVICE	1,320,461	1,402,310	(81,849)	1,350,244	4,051,566	4,206,931	(155,365)	4,073,144
CRANE RELOCATION	-	-	-	-	-	-	-	365,000
OTHER NON OP EXPENSE	7	428	(421)	844	3,612	1,284	2,328	3,984
<b>TOTAL NON OPERATING EXPENSE</b>	<b>1,320,468</b>	<b>1,402,738</b>	<b>(82,270)</b>	<b>1,351,088</b>	<b>4,055,178</b>	<b>4,208,215</b>	<b>(153,037)</b>	<b>4,442,128</b>
<b>INCOME BEFORE DEPRECIATION</b>	<b>1,212,070</b>	<b>821,933</b>	<b>390,137</b>	<b>1,467,897</b>	<b>2,236,797</b>	<b>2,643,394</b>	<b>(406,597)</b>	<b>4,608,300</b>

**Jacksonville Port Authority**  
**Balance Sheet (in thousands)**  
**At December 31, 2021**

	<u>December 31, 2021</u>	<u>November 30, 2021</u>	<u>September 30, 2021</u>
<b>Current Assets</b>			
Cash & cash equivalents	15,924	16,863	17,004
Restricted cash & cash equivalents	1,222	-	8,149
Accounts receivable, net	6,457	5,288	7,309
Notes and other receivables	1,284	522	494
Grants receivable	21,592	19,998	26,491
Inventories and other assets	2,057	2,036	1,773
<b>Total Current Assets</b>	<b>48,536</b>	<b>44,707</b>	<b>61,220</b>
<b>Noncurrent Assets</b>			
Restricted cash & cash equivalents	15,904	15,910	15,917
Restricted Cash for Cap Projects	11,414	9,751	345
Deferred outflow of resources	10,828	10,858	10,919
Capital Assets, net	846,683	845,809	849,826
<b>Total Noncurrent Assets</b>	<b>884,829</b>	<b>882,328</b>	<b>877,007</b>
<b>Total Assets</b>	<b>933,365</b>	<b>927,035</b>	<b>938,227</b>
<b>Current liabilities</b>			
Accounts payable	1,805	942	2,202
Construction accounts payable	3,355	980	2,326
Accrued expenses	714	510	1,066
Accrued interest payable	1,087	544	2,928
Retainage payable	1,382	1,382	1,382
Unearned Revenue	6,987	6,987	6,987
Bonds and Notes Payable	7,672	7,672	7,672
<b>Total Current Liabilities</b>	<b>23,002</b>	<b>19,017</b>	<b>24,563</b>
<b>Noncurrent liabilities</b>			
Unearned Revenue	122,615	120,952	120,952
Accrued Expenses	3,201	3,201	3,201
Line of credit	11,929	11,929	15,479
Bonds and notes payable	207,109	207,125	214,291
Short Term Borrowings - COJ	19,500	22,700	25,000
Other Obligations	8,537	8,537	8,537
Net Pension Liability	18,069	18,069	18,069
Deferred inflow of resources	1,461	1,461	1,461
<b>Total Non Current Liabilities</b>	<b>392,421</b>	<b>393,974</b>	<b>406,990</b>
<b>Total Liabilities</b>	<b>415,423</b>	<b>412,991</b>	<b>431,553</b>
<b>Net Position</b>	<b>517,942</b>	<b>514,044</b>	<b>506,674</b>



## **COMMERCIAL HIGHLIGHTS (February 2022)**

The impacts of COVID continue to disrupt many nodes of the international supply chain across nearly all major cargo types, including containers, vehicle cargoes and breakbulk commodities. JAXPORT has strong capabilities to handle additional business caused by these disruptions elsewhere – and we continue to speak with decision makers about shifting their cargo and business to Jacksonville. Highlights include the following:

### **CONTAINERS**

Ocean carriers at other U.S. ports continue to report bottlenecks there, including on the West Coast (ship wait time for a container berth reached 28+ days in January) and in Savannah and Charleston, the latter where wait times for a berth have recently mushroomed for some carriers to 10 days or more. Customers using other ports also report a dearth of equipment, including containers and chassis, all contributing to a decrease in schedule reliability to deliver to customers. By contrast, JAXPORT continues to have ample capacity to handle additional ships, with no congestion at our berths, and with sufficient trucking capacity to move goods inland. Over the last month, we have met virtually or in person with many ocean carriers and shippers, large and small, about shifting vessels and volume to Jacksonville. As a result, we have been able to attract four charter vessels (three have arrived; the fourth arrives in March), all “one off” vessels carrying cargo from Asia, managed by a network of international freight forwarders and logistics companies who realize JAXPORT has ample berth capacity to handle their vessels. This is in addition to the nine Hapag Lloyd vessels carrying European cargo which diverted from Savannah to JAXPORT over the prior two months. Additionally, our Puerto Rico volumes remain solid as our three Jones Act carriers (Crowley, TOTE and Trailer Bridge) combine to supply the island, which has proven resilient despite the challenges of COVID and continued long-term economic recovery from prior natural disasters. While attracting charter vessels and ship diversions augment our work, to meaningfully grow our container volumes will require additional, regular vessel service because most inbound U.S. vessels are full. The completion of our harbor deepening project remains key to attracting new Trans-Pacific service. Meanwhile, overall container volumes will remain steady for the foreseeable future.

### **VEHICLE CARGOS**

Global automakers continue to downgrade production forecasts due to a lack of parts, specifically microchips, and this is having an appreciable impact on our volumes. One example: in February 2022, Toyota cut its global consolidated sales forecast to 8.25 million vehicles for the current fiscal year ending March 31, from an earlier outlook of 8.55 million vehicles, citing a lack of chips as the major reason behind the forecast reduction. Across all automakers, global vehicle sales dropped from 90 million units in 2019 to 80 million units in 2021, according to an analyst with WWS, with production expected to lag in 2022. JAXPORT vehicle volumes reflect

this production decline. Importantly, the port has not lost vehicle makers or market share to other ports; rather, production volumes, and therefore U.S. vehicle imports and exports, have simply declined. Our sales and senior leadership teams remain in close contact with our tenant vehicle processor and major automakers, and port volumes will steadily rebound in time, in-line with the steady increase in global vehicle production.

### **BREAKBULK**

While vehicle and container volumes have been impacted by COVID, we are enjoying new breakbulk business (up 13% YOY through December 2021), specifically cargo from other ports that has shifted out of containers into breakbulk shipments now handled at JAXPORT. Two examples:

- One of our terminal operators recently began handling exports of frozen poultry to the Caribbean, cargo which normally moves in containers via other ports. The first vessel called JAXPORT recently to be loaded with 4,500 tons of chicken on pallets. We expect to see regular ship calls for this cargo moving forward.
- The same terminal operator also handled its first breakbulk shipment of coffee – a commodity which decades ago moved via breakbulk but then shifted to containers – and now these shipments have shifted back to breakbulk due to issues with container equipment and timing. We could see additional breakbulk coffee shipments moving forward, particularly if container equipment and vessels continue to pose a challenge.

JAXPORT's commercial team also has assisted with new breakbulk shipments of plywood and steel, as we continue to lean into our diversification of cargo types and commodities. This includes leveraging local third party, off-terminal providers who can provide storage and handling space for non-traditional breakbulk commodities shipped through JAXPORT, as demand for breakbulk space continues to grow. This cargo type will continue to yield new business opportunities for JAXPORT.

We will provide a full Commercial Report at the next regularly-scheduled Board meeting.

*end*



A motion was made and seconded. The Awards Committee voted unanimously to award this contract.

**Item No. 5**

**AC2022-01-05**

Refurbish Truck Scales at Talleyrand Marine Terminal

JPA Project G/L No.: 003.2044.178

JPA Contract No.: MC-1771 CO#1

Mettler-Toledo, Inc.

\$1,626

A motion was made and seconded. The Awards Committee voted unanimously to award this contract.

**Item No. 6**

**AC2022-01-06**

TMT Westrock Property Clearing and Grubbing

JPA Project No.: T2020.01

JPA Contract No.: C-1728R (Rescission)

Graham County Land Company, LLC

\$192,000

A motion was made and seconded. The Awards Committee voted unanimously to rescind this contract.

(Item No. 1 requires Board Approval)

This meeting had technical difficulties and was not able to be recorded.

*The meeting was adjourned at 4:40 PM.*