

MARINE TERMINAL LEASE AND OPERATING AGREEMENT
BETWEEN
BROWARD COUNTY
AND
HORIZON TERMINAL SERVICES LLC

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**MARINE TERMINAL LEASE AND OPERATING AGREEMENT BETWEEN
BROWARD COUNTY AND HORIZON TERMINAL SERVICES LLC**

This Marine Terminal Lease and Operating Agreement (the "Agreement") is made and entered into by and between Broward County, a political subdivision of the State of Florida ("County"), and Horizon Terminal Services LLC, a Delaware limited liability company authorized to transact business in the state of Florida ("Horizon").

WITNESSETH:

WHEREAS, County owns and has jurisdiction over the development, operation, and maintenance of Port Everglades in Broward County, Florida; and

WHEREAS, Horizon is a company engaged in the ocean-going transport of vehicles and heavy project cargo and operates out of Port Everglades; and

WHEREAS, County and Horizon (hereinafter referred to as "the Parties") desire to enter into this Agreement to lease certain land owned by County which is located at Port Everglades, NOW, THEREFORE,

In consideration of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. DEMISED PREMISES

A. DEFINED

Effective on the Commencement Date hereof, County leases to Horizon that certain real property totaling ±8.67 acres of land and all improvements thereon, comprising a ±5.67 acre parcel of land and all improvements thereon, owned by County,

located as more particularly described in Exhibit A-1, and 27,560 square feet of warehouse space owned by County, located as more particularly described in Exhibit A-2, and ±3.0 acres of land, and all improvements thereon owned by County, located as more particularly described in Exhibit A-3, collectively referred to herein as the "Demised Premises." County covenants with Horizon that it is possessed of good and marketable fee simple title to the Demised Premises, free and clear of all encumbrances, and that it will defend the same against the lawful claims of all persons whomsoever. County covenants with Horizon that Horizon shall peacefully enjoy the Demised Premises leased hereunder.

B CONDITION OF DEMISED PREMISES

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

2. TERM AND COMMENCEMENT DATE

The term of this Agreement shall begin on January 1, 2018 (the "Commencement Date"), and shall run for a period of five (5) years ("Term"), unless sooner terminated as provided herein. "Lease Year" as used in this Agreement, shall mean each consecutive twelve (12) month period over the Term hereof, beginning on the Commencement Date.

3. **FILING WITH FEDERAL MARITIME COMMISSION**

This Agreement may be filed with the Federal Maritime Commission.

4. **USE AND COMPLIANCE WITH LAWS; FAILURE TO COMPLY**

A. **USE**

Horizon shall use the Demised Premises solely as a modern ocean-going vehicle processing, motor vehicle, and heavy project cargo marine terminal yard facility with related office uses, and for no other use or purpose whatsoever, without the prior written consent of County's Port Everglades Department Chief Executive/Port Director.

Under no circumstances shall Horizon use or allow or permit others to use any portion of the Demised Premises in competition with any business conducted by County. Horizon shall conduct its operations in an orderly and commercially reasonable manner considering the nature of its operations. Horizon shall not unreasonably annoy, disturb (whether via vibrations, noise, or otherwise), endanger, or be offensive to other users and tenants at Port Everglades. Horizon shall commit no waste or injury on or about the Demised Premises, and shall not do or permit to be done anything that may result in the creation, commission, or maintenance of such waste or injury on the Demised Premises. Horizon's use of the Demised Premises shall be performed in such manner as to avoid the creation of any nuisance from dust, smoke, obnoxious odors, fumes, vapors, noise, or otherwise. Horizon shall not keep or store any explosives on the Demised Premises without the required notification to and approval by the Broward Sheriff's Office, Fire Rescue Department located at Port Everglades.

B. Should Horizon fail to comply with the use prohibitions or nuisance restrictions provided hereinabove, then County's Port Everglades Department Chief Executive/Port Director shall provide Horizon with written notice of such violation, and

Horizon shall correct and cure same within a reasonable time period not to exceed sixty (60) calendar days after the date written notice is sent. If the noncompliant matter is not abated, corrected, or cured as applicable, within this time period, then County's Port Everglades Department Chief Executive/Port Director shall either: (i) send Horizon a cease and desist letter, requiring Horizon to immediately cease and desist its operations on the Demised Premises until the noncompliant matter is resolved to County's Port Everglades Department Chief Executive/Port Director's satisfaction, or (ii) recommend the termination of this Agreement to County's Board of County Commissioners. County shall have the right to seek such legal and equitable remedies as are available to County, to address the noncompliant matter(s).

It is understood that Horizon will not conduct any welding or burning on the Demised Premises until it has obtained all required permits from County; City of Hollywood, Florida; and the U.S. Coast Guard. County agrees that it will not unreasonably withhold issuance of any welding or burning permits required by County. Horizon shall provide County's Port Everglades Department Chief Executive/Port Director with evidence that it has obtained all required permits within one (1) calendar day after County's written demand therefor.

Horizon shall maintain a five (5) foot clear zone from the perimeter fencing of its marine terminal yard at all times.

C. COMPLIANCE WITH LAWS

Horizon shall at all times and at its sole expense comply with all laws, ordinances, rules, and regulations of all governmental bodies having jurisdiction over the Demised Premises, and the business being conducted thereon, including, but not limited to, Section 255.20, Florida Statutes, by competitively awarding any construction

work required hereunder; the Americans with Disabilities Act of 1990 ("ADA"); and Port Everglades Tariff. All laws, ordinances, rules, or regulations imposed by County shall be imposed and operate uniformly with respect to all who avail themselves of similar services or facilities at Port Everglades. Within fifteen (15) calendar days after receipt by Horizon of a notice of noncompliance, regulatory investigation, or enforcement action (instituted by an agency or jurisdiction other than County's Port Everglades Department of Broward County) relating to such noncompliance, Horizon shall advise County's Port Everglades Department Chief Executive/Port Director in writing and provide him/her with copies of all related correspondence and documentation Horizon has in its possession.

D. COMPLIANCE VIOLATIONS

Horizon shall correct or cure as applicable, the noncompliant matter(s) within a reasonable period, not to exceed sixty (60) calendar days after the date of receipt by Horizon of notice of noncompliance, regulatory investigation, or enforcement action. If the noncompliant matter is not corrected or cured as applicable, within this time period, then County's Port Everglades Department Chief Executive/Port Director shall either: (i) send Horizon a cease and desist letter, requiring Horizon to immediately cease and desist its operations on the Demised Premises until the noncompliant matter(s) is resolved to County's Port Everglades Department Chief Executive/Port Director's satisfaction, or (ii) recommend termination of this Agreement to County's Board of County Commissioners. County shall have the right to seek such legal and equitable remedies as are available to County to address the noncompliant matter(s).

5. RENTALS, FEES, AND CHARGES

A. PAYMENTS.

The annual rental fee for each year of the Term, subject to adjustment as hereinafter provided, shall be paid by Horizon in twelve (12) monthly installments, together with all applicable sales taxes thereon, on the first day of each and every month, without demand, set off, or deduction, beginning on the Commencement Date and continuing for the remainder of the Term.

1) Commencing on the Commencement Date, Horizon's total annual rental for the first Lease Year of the Term is in the amount of Four Hundred Twenty-nine Thousand Five Hundred Forty-one Dollars and Sixty-eight Cents (\$429,541.68), plus applicable sales taxes, which amount is made up of Twenty-nine Thousand Two Hundred Thirteen Dollars and Sixty Cents (\$29,213.60) for the warehouse space and Four Hundred Thousand Three Hundred Twenty-eight Dollars and Eight Cents (\$400,328.08) for the improved land. Rent shall be paid in twelve (12) monthly rental installments of Thirty-five Thousand Seven Hundred Ninety-five Dollars and Fourteen Cents (\$35,795.14), plus applicable sales taxes.

2) County and Horizon agree that the total annual rental amount (established in subparagraph (1) hereinabove), shall be adjusted yearly over the Term, on the annual anniversary of the Commencement Date (the "Adjustment Date"), as set forth below, and each adjusted annual rental amount (together with applicable sales taxes thereon) for the Demised Premises shall be payable in twelve (12) monthly installments for that Lease Year.

3) On each "Adjustment Date," the annual rental shall be increased to an amount equal to the greater of either: (i) the product of the annual rental due and payable during the immediately preceding Lease Year, multiplied by the "CPI Multiplier" (as hereinafter defined); or (ii) the product of the annual rental due and payable during the immediately preceding Lease Year, multiplied by 1.03. The product of such multiplication shall be the amount of the annual rental payment to be made during the next succeeding Lease Year. In no event shall any adjusted annual rental, established pursuant to this subparagraph (3), be less than the total annual rental paid during the immediate prior twelve (12) month period.

(i) The "CPI Multiplier" is a fraction, the numerator of which shall be the "CPI Index Number" (as hereinafter defined) indicated for the month that is three (3) months prior to the Adjustment Date and the denominator of which shall be the CPI Index Number indicated for the month that is fifteen (15) months prior to the Adjustment Date.

(ii) The "CPI Index Numbers" are the index numbers of retail commodity prices designated "CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS - UNITED STATES CITY AVERAGE - ALL ITEMS" (1982-1984 =100) ("Consumer Price Index") issued by the Bureau of Labor Statistics, United States Department of Labor. The rental and the adjustment made based upon the provisions of this section shall be made solely by County. Any publication by either the United States Department of Labor or the United States Department of Commerce in which such Index numbers are published shall be admissible in evidence in any legal or judicial proceeding involving this Agreement without further proof of

authenticity. Should the Bureau of Labor Statistics cease publishing the above-described Index, then such other Index as may be published by the United States Department of Labor that most nearly approximates the discontinued Index shall be used in making the adjustments described above. Should the United States Department of Labor discontinue publication of an Index approximating the Index contemplated, then such Index as may be published by another United States governmental agency, which most nearly approximates the Index first above referenced, shall govern and be substituted as the Index to be used.

4) Upon determining a rental adjustment, County's Port Everglades Department Chief Executive/Port Director or designee shall within thirty (30) calendar days prior to the Adjustment Date advise Horizon of the adjusted annual rental amount for such period, which shall be accompanied by evidence supporting the manner in which the new adjusted rent was determined, which evidence shall be in sufficient detail to enable Horizon to verify the calculations.

5) It is understood and agreed that when a rental adjustment is required hereunder, the then current annual rental amount being paid shall continue until County's Port Everglades Department Chief Executive/Port Director or designee provides notice of the adjusted annual rental amount, and the rental adjustment shall be retroactive to the Adjustment Date. The sum constituting the adjustment for the months of the period that has passed prior to the determination of the amount of the rental adjustment, shall be due and payable within thirty (30) calendar days after notice to Horizon of the determination.

6. PAYMENT BOND

A. Horizon shall provide County with a Payment Bond in the amount of Three Hundred Thirty-five Thousand Dollars (\$335,000) ("Bond") and in a form approved by County's Port Everglades Department, as a security, within seven (7) calendar days after the date this Agreement is approved by the County's Board of County Commissioners. County and Horizon agree that the Bond shall be executed by a surety company of recognized standing, authorized to transact business in the state of Florida as surety, having a resident agent in the state of Florida, and having been in business with a record of successful continuous operation for at least five (5) years. County's Port Everglades Department will accept a Bond from a surety company with an A.M. Best Company Rating Guide rating of A- or better, provided, however, that if the surety company appears on the watch list that is published quarterly by Intercom Office of the Florida Insurance Commissioner, County's Port Everglades Department Chief Executive/Port Director or designee shall review and either accept or reject the surety company based upon the financial information available to County. Horizon shall submit a Bond with a different surety company to County's Port Everglades Department Chief Executive/Port Director or designee until County's Port Everglades Department Chief Executive/Port Director or designee accepts the Bond. Bond acceptance is in the sole discretion of County's Port Everglades Department Chief Executive/Port Director or designee. The Bond shall guarantee to County the full payment of all monetary obligations, damages, expenses, costs, and reasonable attorney's fees sustained by County as a result of Horizon's default under this Agreement. The Bond shall continue in effect for one (1) year following termination or expiration of this Agreement.

B. County shall have the right to use the Bond as a financial guarantee of Horizon's payment and performance obligations pursuant to the terms and conditions of this Agreement, and the Bond shall be used to reimburse County for all costs and expenses that County elects, in its sole discretion, to pay on Horizon's behalf in the event Horizon fails to make payments of any sums required hereunder or fails to perform any of Horizon's obligations under this Agreement.

C. In the event that Horizon is in default under this Agreement more than two (2) times within any twelve-month period, irrespective of whether or not such default is cured, then, without limiting County's other rights and remedies provided for in this Agreement or at law or equity, County's Port Everglades Department shall have the right to automatically increase the Bond to three times the original Bond amount or three months' minimum annual rent, whichever is higher. The Bond increase shall be effective automatically upon the occurrence of a third default within any twelve-month period, and Horizon shall post the increased Bond to County's Port Everglades Department within five (5) business days after receiving written notice from County's Port Everglades Department to increase the amount of the Bond.

D. In the event of a Horizon default under this Agreement, County's Port Everglades Department is authorized to immediately draw down on the Bond to cover the amount of the nonpayment(s) and the amount required to reimburse County for its costs, expenses, and damages incurred as a result of Horizon's default hereunder. Further, County's Port Everglades Department shall notify County's Board of County Commissioners of any Horizon default(s), within seven (7) calendar days after same. All or any part of the Bond drawn down and applied by County's Port Everglades Department under this section shall be repaid by Horizon within fifteen (15) calendar

days after written demand is sent, so that the Bond is maintained at its required full dollar amount. All amounts not paid within said time frame shall accrue interest and late charges in accordance with Article 7 herein.

7. INTEREST AND LATE CHARGES

All invoices for charges and other payments required by Horizon to be paid to County under the terms of this Agreement shall be due and payable within thirty (30) calendar days after the invoice date. If Horizon fails to pay rent or other amounts that Horizon is obligated to pay under the terms of this Agreement within fifteen (15) calendar days after the due date, Horizon shall pay County, in addition to the amount otherwise due, a late charge equal to ten percent (10%) of such overdue amount. Interest shall accrue on all delinquent rent and other amounts as is provided for in County's rules, regulations, and ordinances, including Port Everglades Tariff, amendments thereto and reissues thereof, provided such assessments shall be applied uniformly to all customers of County similarly situated.

Horizon and County agree that the late charge set forth herein represents a reasonable estimate of such costs and expenses and is fair compensation to County for the loss suffered from such nonpayment by Horizon. No acceptance by County of rent, fees, charges, or other payments in whole or in part for any period or periods after a default by Horizon of any of the terms, covenants, and conditions hereof shall be deemed a waiver of any right on the part of County to terminate this Agreement or forego interest or late charge payments. Any and all amounts due and payable under this section shall be considered additional rent payable to County.

8. PLACE OF PAYMENTS

All payments required to be made by Horizon under this Agreement, shall be made payable to: BROWARD COUNTY, and shall be delivered to: Port Everglades, Attn: Finance Division, 1850 Eller Drive, Fort Lauderdale, Florida, 33316, or to such other office or address as may be substituted pursuant to Article 19.

9. TAXES

A. Nothing herein shall prevent Horizon from challenging any assessment or any tax to the same extent and in the same manner as may any other property owner or resident of Broward County.

Throughout the Term, Horizon agrees to pay all taxes levied and assessed upon the Demised Premises, and all improvements thereon, together with all special assessments of any kind levied and assessed against the Demised Premises and improvements thereon, together with sales tax. Further, Horizon agrees to pay, as rent, when due and before the same becomes delinquent, all personal property taxes that may be levied and assessed against all tangible personal property situated on the leasehold and subject to taxation, and against Horizon's intangible personal property subject to taxation in Broward County, Florida. Additionally, Horizon agrees to pay, as rent, all sales or use taxes that might hereafter be lawfully assessed or imposed arising out of the execution of this Agreement.

B. Horizon agrees to pay, as rent, on or before December 31st of each calendar year (or such other date as may subsequently be set by County), all taxes levied and assessed upon the Demised Premises, all improvements thereon, together with all special assessments of any kind levied and assessed against the Demised Premises and improvements thereon for such calendar year, together with sales tax;

provided, however, that such amount to be paid will be prorated based on the actual days in which this Agreement is effective if effective for less than an entire calendar year.

In addition, Horizon agrees to pay, as rent, at least thirty (30) calendar days prior to expiration of the Term as applicable or immediately upon an earlier termination of this Agreement, a pro rata amount of the tax obligation, together with sales tax, for the calendar year in which such expiration or earlier termination occurs ("Exit Year"), provided that the tax obligation for such year has not been previously paid. In the event the actual tax obligation for the Exit Year has not yet been determined, then the amount due to County shall be estimated based on the tax obligation levied and assessed against the Demised Premises and improvements thereon for the prior calendar year. Thereafter, if the estimated amount paid by Horizon based on the prior year's obligation is less than the actual tax obligation for the Exit Year, then Horizon shall pay the shortfall to County within fifteen (15) calendar days after written demand is made. If the estimated amount paid by Horizon based on the prior year's obligation is greater than the actual tax obligation for the Exit Year, then County shall refund the overpayment amount to Horizon in accordance with applicable state and local laws.

C. The provisions of this section shall survive the termination or expiration of this Agreement.

10. UTILITIES

A. GENERALLY

County shall provide water and sewer hook-ups and high mast lighting to the Demised Premises. County shall not be obligated to perform or furnish utility services in connection with the Demised Premises, while Horizon has failed to cure a default

hereunder. No failure, delay, or interruption in County provided utility services to the Demised Premises shall be construed as an eviction of Horizon, or grounds for any abatement of rental payments or a claim by Horizon against County for damages, except where such failure, delay, or interruption is directly caused by a negligent act or omission of County. In such event, Horizon shall be entitled to an abatement of rental payments, only for the period of time of the failure, delay, or interruption in County provided utility services for the Demised Premises.

B. CHARGES

Horizon shall make arrangements directly with the utility company for electric service to the Demised Premises, and shall pay the utility company directly for all such charges, including applicable Florida sales tax. Any electrical service to the Demised Premises not separately metered for Horizon's use shall be billed monthly by County to Horizon for its pro rata share of electrical service including the warehouse space, office, and high-mast lights serving the Demised Premises, in addition to applicable sales tax on all such electrical service.

County, or any other entity providing potable water service utilized on the Demised Premises, shall bill Horizon directly each month for all charges associated with such water use, including Florida sales tax.

11. RIGHT TO INSPECT

A. INSPECTION

County, by its officers, employees, agents, representatives, and contractors, shall have the right at all reasonable times to enter upon the Demised Premises to inspect same for any reason in order to make inquiry or ascertain whether Horizon is complying

with the terms of this Agreement, and the doing of any act or thing that County may be obligated or have the right to do under this Agreement or otherwise.

B. REPAIR

Without limiting the generality of the foregoing, County, and its officers, employees, agents, representatives, contractors, and furnishers of utilities and other services, shall have the right, at County's own cost and expense, for County's own benefit or for the benefit of others at Port Everglades, to maintain existing and future utility, mechanical, electrical, and other systems and to enter upon the Demised Premises at all reasonable times to make such repairs, replacements, or alterations thereto. County shall have the right to construct or install over, in or under the Demised Premises, such utility, mechanical, electrical, and other systems or parts thereof and in connection with such maintenance, and repair, use the Demised Premises for access to other parts of Port Everglades otherwise not conveniently accessible; provided, however, that in the exercise of its right of access, County shall not unreasonably interfere with the actual use and occupancy of the Demised Premises by Horizon.

C. REMOVAL OF OBSTRUCTIONS

In the event that any personal property of Horizon shall obstruct the access of County, its officers, employees, agents, or contractors to any of the existing or future utility, mechanical, electrical, and other systems and thus shall interfere with the inspection, maintenance, or repair of any such system, Horizon shall remove such property, as directed by County's Port Everglades Department Chief Executive/Port Director or designee, in order that access may be had to the system or part thereof for its inspection, maintenance, or repair, and if Horizon shall fail to so remove such

property after such direction, County's Port Everglades Department may remove it and Horizon hereby agrees to pay all County's costs for the removal upon demand.

D. NO EVICTION CONSTRUED

The exercise of any or all of the foregoing rights by County shall not be construed to be an eviction of Horizon nor be grounds for any abatement of payments required hereunder by Horizon, nor the basis for Horizon to make any claim or demand for damages, consequential or otherwise, against County.

12. INSOLVENCY

If Horizon becomes insolvent or bankruptcy proceedings are begun by or against Horizon, and within thirty (30) days thereof Horizon fails to secure a discharge thereof, or if Horizon should make an assignment for the benefit of creditors before the end of the Term of this Agreement, County is hereby irrevocably authorized to terminate this Agreement. County may elect to accept rent and other required compensation from the receiver, trustee, or other judicial officer during the term of their occupancy in their fiduciary capacity without affecting County's rights under this Agreement, but no receiver, trustee, or other judicial officer shall have any right, title, or interest in the Demised Premises.

13. MAINTENANCE AND REPAIR OF PREMISES

A. HORIZON'S RESPONSIBILITIES

Horizon hereby accepts the Demised Premises in its then present condition as of the date it takes occupancy, and as more particularly described in the environmental baseline report(s) attached hereto as Exhibit D, and agrees to maintain the Demised Premises in the same condition, i.e., clean, sanitary and in good working order as exists on said dates, excepting only reasonable wear and tear arising from Horizon's use

thereof pursuant to the terms and conditions of this Agreement. Horizon shall assume the entire responsibility and shall relieve County (except as provided in Subparagraph B of this article) from responsibility for all repair and maintenance whatsoever of the Demised Premises (which shall include, without limitation, all improvements thereon), whether such repair or maintenance be ordinary or extraordinary, structural, or otherwise. Horizon shall, at all times, keep the Demised Premises in good, tenantable, useable condition, and without limiting the generality thereof, shall:

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

2) Maintain the Demised Premises in a clean, orderly, and safe condition so as to avoid injury to persons and property.

3) Repair any damage to the paving or other surface of the Demised Premises caused by overloading or any oil, gasoline, grease, lubricants, or other liquids or substances having a corrosive or detrimental effect thereon.

4) Provide and maintain all obstruction lights and similar devices, fire protection, safety equipment, and all other equipment of every kind and nature required by all laws, rules, orders, ordinances, resolutions, or regulations of all applicable governmental authorities.

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

In the event Horizon fails in any material respect to: (i) commence curative action to maintain, clean, repair, replace, rebuild, or paint within a period of thirty (30) calendar days (except seven (7) calendar days for maintenance items) after notice from County's Port Everglades Department Chief Executive/Port Director or designee to do so is sent; or (ii) continue to completion in a diligent manner, the maintenance, repair, replacement, rebuilding, or painting of the Demised Premises required to be maintained, repaired, replaced, rebuilt, or painted under the terms of this Agreement, then County's Port Everglades Department may, at its option, and in addition to any other remedies that may be available to it, maintain, repair, replace, rebuild, or paint all or any part of the Demised Premises included in the said notice and all costs and expenses associated therewith shall be payable by Horizon to County within fifteen (15) calendar days after written demand is sent.

B. COUNTY'S RESPONSIBILITY

County, at its sole expense, shall maintain and repair all underground utilities, high-mast lighting, and repair container yard pavement due to normal wear and tear, which are now or may be subsequently located at the Demised Premises; provided, however, that for repairs necessitated by any act, omission, negligence, or willful misconduct on the part of Horizon, its employees, agents, contractors, or invitees, Horizon, at County's option, shall make all such repairs or reimburse County within

fifteen (15) calendar days after written demand is sent. County's Port Everglades Department Chief Executive/Port Director or designee shall provide Horizon with immediate notice of any and all spills, leaks, or discharges of any size whatsoever of Pollutants (as defined in Article 27 herein) occurring on County-owned property adjacent to the Demised Premises. County's notice obligation to Horizon is expressly conditioned on County having actual knowledge of any such spill, leak, or discharge. County shall take immediate action to enforce its contractual rights and remedies against any third party responsible for any spill, leak, and/or discharge of Pollutants on County-owned property adjacent to the Demised Premises. Such remedies include the immediate containment, removal, and abatement of such Pollutants by the third party to the satisfaction of County and any court or regulatory authority having jurisdiction over the spill, leak, and/or discharge.

14. INSURANCE

A. Horizon shall maintain, at its sole cost and expense at all times during the Term of this Agreement, the insurance coverages set forth in this article. Such policies shall be issued by U.S. Treasury approved companies authorized to do business in the state of Florida, with a minimum A.M. Best Company Rating Guide rating of A-. Coverage shall be afforded on a form no more restrictive than the latest edition of the respective Insurance Services Office policy. In the case of coverage for U.S. Longshore & Harbor Workers' Compensation Act, insurance may be through a group self-insurer authorized to provide such coverage by the U.S. Department of Labor. Horizon shall be responsible for any policy deductibles or self-insured retentions. Horizon shall specifically protect County and the Broward County Board of County Commissioners by naming "Broward County" as an additional insured on a primary and

noncontributory basis under the General Liability Policy, as well as on any Excess Liability Policy. The official title of the certificate holder is Broward County. This official title shall be used in all insurance documentation.

1) Commercial Liability Insurance. Commercial General Liability Insurance with minimum limits of One Million Dollars (\$1,000,000) per occurrence, combined single limit for bodily injury and property damage liability, and Five Million Dollars (\$5,000,000) per aggregate including coverage for:

Premises and/or operations.

Independent contractors.

Broad Form Contractual Coverage applicable to this specific Agreement, including any hold harmless and/or indemnification agreement.

Personal Injury.

2) Business Automobile Liability. Business Automobile Liability Insurance with minimum limits of One Million Dollars (\$1,000,000) per occurrence, combined single limit for bodily injury and property damage.

3) Excess Liability/Umbrella Policy with minimum limits of Five Million Dollars (\$5,000,000) each occurrence. Broward County shall be named as an additional insured unless policy provides coverage on a true and pure follow-form basis.

4) Workers' Compensation Insurance. Workers' Compensation Insurance shall apply for all employees in compliance with Chapter 440, Florida Statutes, the "Workers' Compensation Law" of the state of Florida, and all applicable federal laws. In addition, the policy(ies) must include:

Employers' Liability with a limit of One Million Dollars (\$1,000,000) each accident.

5) If any operations are to be undertaken on or about navigable waters, coverage must be included for the U.S. Longshore & Harbor Workers' Compensation Act and Jones Act.

6) Environmental Impairment Liability. Environmental Impairment Liability with clean-up costs and including coverage for sudden and accidental pollution releases with minimum limits of One Million Dollars (\$1,000,000) per claim, subject to a maximum deductible of One Hundred Thousand Dollars (\$100,000) per claim. Such a policy shall include a Two Million Dollar (\$2,000,000) annual policy aggregate. Coverage shall remain in force for three (3) years after the expiration date of this Agreement, and name Broward County as additional insured.

In the event Environmental Impairment Liability Coverage cannot be purchased, Horizon may elect one of the following options:

a) Self-Insurance (in compliance with applicable state and federal laws, rules, and regulations) in the minimum amount of Two Million Dollars (\$2,000,000) certified by Horizon's Chief Financial Officer. Horizon's Chief Financial Officer shall provide not less than thirty (30) calendar days' prior notice to County in the event self-insurance funds are reduced below the specified limit. The certification shall warrant such notice and shall be in form and substance satisfactory to County's Port Everglades Department Chief Executive/Port Director or designee; or

b) Horizon shall provide County with an irrevocable letter of credit drawn on a bank approved by County's Port Everglades Department or a financial guaranty bond in the amount of Two Million Dollars (\$2,000,000) specifically based on the conditions and performance of this Agreement. County's Port Everglades Department Chief Executive/Port Director's or designee's prior written approval must be obtained by Horizon as to the form and substance of the letter of credit or bond, and the financial institution issuing the letter of credit or bond. The surety underwriting the letter of credit or bond shall maintain a minimum rating of A- by A.M. Best Company Rating Guide, and must be admitted to conduct business in the continental United States.

B. Horizon shall furnish to County's Port Everglades Department proof of insurance in the form of a Certificate of Insurance and endorsements, evidencing the insurance coverage specified by this article upon execution of this Agreement. Horizon's failure to provide proof of insurance to County's Port Everglades Department shall constitute a default of this Agreement by Horizon.

C. Coverage is not to cease and is to remain in force until all performance required of Horizon is completed. A certified copy of any policy required by this article shall be provided to County's Port Everglades Department upon request. County's Port Everglades Department shall be notified within thirty (30) calendar days after any cancellation or restriction of coverage. If any of the insurance coverage will expire prior to the Term of this Agreement, evidence of policy renewal shall be furnished upon expiration.

D. County's Port Everglades Department reserves the right to review and revise any of Horizon's insurance requirements over the Term hereof, including, but not limited to, deductibles, limits, coverage, and endorsements. County's Port Everglades Department shall provide Horizon with thirty (30) calendar days' prior written notice of any required revisions to existing insurance requirements.

15. ASSIGNMENT; SUBLETTING; SUBORDINATION

A. COUNTY CONSENT REQUIREMENTS; FACTORS AND STANDARDS

Horizon shall not (i) sublet the Demised Premises or any part thereof; or (ii) permit any transfer, assignment, pledge, or encumbrance of this Agreement; or (iii) transfer, assign, pledge, or otherwise encumber or subordinate this Agreement or any rights or obligations hereunder; or (iv) allow same to be assigned by operation of law or otherwise (any such action being called an "Assignment") without County's Board of County Commissioners' prior written consent, which consent may be granted or withheld by County's Board of County Commissioners in the exercise of its sole discretion and conditioned upon such additional terms and conditions as County's Board of County Commissioners deems necessary. The factors upon which County's Board of County Commissioners may base its decision on whether to grant such consent shall include, but not be limited to: (i) an assessment of whether the proposed assignee meets standards of creditworthiness, (ii) whether the Demised Premises will be used in connection with the maritime industry for the purposes described herein, and (iii) an assessment of the ability of the proposed assignee to perform the obligations under this Agreement. In the event of any request for an Assignment by Horizon, the proposed assignee shall be required to execute a written assumption agreement, agreeing to assume and abide by all of the terms and provisions of this Agreement, which

assumption agreement must be acceptable to County's Board of County Commissioners. All County consents required under this article shall not be unreasonably withheld. In no case will an Assignment be granted if a default by Horizon shall have occurred and remain uncured.

B. NO RELEASE

In the event of any Assignment, Horizon shall not be released of any liability hereunder. County, as a condition of approving an Assignment, may increase the rent and fees payable hereunder, and may require modification of any other terms or conditions of this Agreement and/or execution of additional documents, including an irrevocable Guaranty of Payment and Performance by the proposed Assignor.

C. CHANGE IN HORIZON'S STATUS

For the purposes of this article, an "Assignment" shall include (i) any transfer of this Agreement by merger, consolidation, liquidation or by operation of law; or (ii) if Horizon is a corporation, any change in control or ownership or power to vote a majority of the outstanding voting stock of Horizon (whether occurring as a result of a single transaction or as a result of a series of transactions); or (iii) if Horizon is a limited or a general partnership or joint venture, any transfer of an interest in the partnership or joint venture (or a transfer of an interest in a corporate general partner or corporate joint venture) that results in a change in control or ownership of such limited or general partnership or joint venture from those controlling or owning such limited or general partnership interest or joint venture interest (whether occurring as a result of a single transaction or as a result of a series of transactions); or (iv) if Horizon is a limited liability company, any transfer of a membership interest in the limited liability company that results in a change in control or ownership of such limited liability company from those

controlling or owning such membership interest (whether occurring as a result of a single transaction or as a result of a series of transactions).

Notwithstanding the foregoing, the following shall not be deemed an Assignment for purposes of this article: (i) a transfer of stock or interests in Horizon among its current (as of the date this Agreement was approved by County's Board of County Commissioners) owners and/or their immediate affiliates; or (ii) a transfer of stock or interests in Horizon resulting from the death of a stockholder, member, partner, or joint venturer; or (iii) any transfers of stock in Horizon which stock is publicly traded on a national stock exchange.

D. VOIDING OF ASSIGNMENT OR SUBLEASE; RIGHT TO COLLECT RENT

In the event Horizon shall take any action specified under this article without County's Board of County Commissioners' prior written consent, then any such Assignment shall be null and void, and of no force or effect, and in addition to all other available remedies, County's Board of County Commissioners shall be entitled to immediately terminate this Agreement. In no case may the activities, uses, privileges, and obligations authorized herein regarding the Demised Premises or any portion thereof be assigned for any period or periods after a default shall have occurred hereunder and remain uncured.

In addition, if the Demised Premises are occupied by any entity without County's prior written consent in violation of this article, then County may collect rent from the assignee, sublessee, or any party who claims a right to this Agreement or who occupies the Demised Premises, and County's Port Everglades Department shall apply the net amount collected to the rent herein reserved; however, no such collection shall be

deemed a waiver by County of the provisions of this article or any acceptance by County of any assignee, sublessee, or any party who claims a right to this Agreement or who occupies the Demised Premises.

E. SUBORDINATE TO COUNTY

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

F. MORTGAGE ON LEASEHOLD

No leasehold mortgage shall be binding upon County without the prior written consent of County's Board of County Commissioners. However, County will accept performance or payment by the holder of any leasehold mortgage to which County's

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

County's Port Everglades Department Chief Executive/Port Director or designee shall, from time to time, upon reasonable written request, provide a leasehold mortgagee or Horizon with an estoppel certificate stating whether Horizon is in default hereunder, whether this Agreement is in full force and effect, and whether this Agreement has been modified. Notwithstanding any consent provided by County hereunder, no Assignment shall give Horizon or its assignee or leasehold mortgagee any lien or encumbrance upon the fee simple ownership interest in the Demised Premises which is vested in County.

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

----- Upon the happening of any default and receipt of notice of default from County's Port Everglades Department Chief Executive/Port Director or designee, Horizon will promptly notify the approved leasehold mortgagee in writing of such occurrence and shall state in the written notice what action has been or will be taken by Horizon to cure the default. Horizon shall also promptly provide County's Port Everglades Department Chief Executive/Port Director or designee with a copy of the written notice provided to the approved leasehold mortgagee.

16. APPLICABILITY OF TARIFF

Except as otherwise provided herein, Horizon, in its use of County-owned property and facilities and its utilization of services at Port Everglades, shall comply with and be governed by all provisions of Port Everglades Tariff, amendments thereto or reissues thereof, herein also referred to as "Port Everglades Tariff" or "Tariff."

17. INDEMNITY

Horizon shall at all times hereafter indemnify, hold harmless, and defend County and all of County's current and former officers, agents, servants, and employees

(collectively, "Indemnified Party") from and against any and all causes of action, claims, demands, fines, penalties, losses, liabilities, and expenditures of any kind, including, attorneys' fees, court costs, and expenses (collectively, a "Claim"), raised or asserted by any person or entity not a party to this Agreement, which Claim is caused or alleged to be caused, in whole or in part, by any intentional, reckless or negligent act or omission of Horizon, its current or former employees, agents, servants, or officers, arising from, relating to, or in connection with this Agreement including, without limitation, any and all claims, demands or causes of action of any nature whatsoever resulting from injuries, sickness and/or death of persons or damage to property. In the event any Claim is brought against an Indemnified Party, Horizon shall, upon written notice from County, defend each Indemnified Party against each such Claim by counsel satisfactory to County or, at County's option, pay for an attorney selected by the Broward County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the County's Port Everglades Department and the Broward County Attorney, any sums due Horizon under this Agreement (including without limitation the Security Deposit) may be retained by County until all of County's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by County.

18. DEFAULT AND TERMINATION

A. TERMINATION AFTER NOTICE

If one or more of the Triggering Events defined in subsection B. below shall occur, same shall be an event of default under this Agreement and County, by its Board

of County Commissioners, may at its option, immediately terminate this Agreement and all rights of Horizon hereunder.

In the event of any termination by County, Horizon shall have no further rights under this Agreement and shall cease forthwith all operations upon the Demised Premises and further covenants and agrees to yield and deliver peaceably and promptly to County possession of the Demised Premises on the termination or expiration date. County, its agents, employees, and representatives shall have the right to enter the Demised Premises and remove all property therefrom, and to accelerate and declare immediately due and payable all unpaid rents and other sums required to be paid under this Agreement. In addition, Horizon shall be liable for all damages incurred by County in connection with Horizon's default or the termination of this Agreement upon such a default, including without limitation, all direct damages, such as collection costs and reasonable attorney's fees, as well as indirect, consequential, and all other damages whatsoever. The exercise by County of its right of termination shall be without prejudice to and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No remedy herein confirmed upon or reserved to County is intended to be exclusive of any other remedy herein provided or otherwise available, and each and every remedy shall be cumulative.

B. TRIGGERING EVENTS

Any one or more of the following events shall constitute a Triggering Event:

- 1) Horizon voluntarily abandons, deserts, or vacates the Demised Premises with the intent to discontinue its operations at Port Everglades for a period of thirty (30) consecutive calendar days; or

2) Any lien, claim, or other encumbrance that is filed against the Demised Premises is not removed within thirty (30) calendar days after Horizon has received notice thereof; or

3) Horizon fails to pay rent when due to County, and continues in its failure to pay rent for a period of fifteen (15) calendar days after the date written notice to cure nonpayment is given to Horizon by County's Port Everglades Department; or

4) Horizon fails to make any other payment required hereunder when due to County, and continues in its failure to make any such other payment required hereunder, for a period of fifteen (15) calendar days after the date written notice to cure nonpayment is given to Horizon by County's Port Everglades Department; or

5) Horizon takes any action described by Article 15 hereof without the prior written consent of County; or

6) The discovery of any material misrepresentation or fraudulent statement made to County in connection with any lease or other application or forms submitted to County in connection with this Agreement or the Demised Premises, following written notice by County's Port Everglades Department and a failure by Horizon to explain the matter to County's Port Everglades Department's satisfaction within thirty (30) calendar days; or

7) Horizon fails to keep, perform, and observe each and every nonmonetary promise, covenant, and term set forth in this Agreement on its part to be kept, performed, or observed within thirty (30) calendar days after written notice to cure is sent by County's Port Everglades Department (except where at

County's Port Everglades Department's discretion additional time is needed to perform curative measures and Horizon has commenced and continues to perform curative measures without interruption); or

8) By or pursuant to, or under authority of, any legislative act, resolution, or rule or any order or decree of any court or governmental board, agency, or officer having jurisdiction, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of Horizon, and such possession or control shall continue in effect for a period of thirty (30) calendar days; or

9) Any business is conducted, or service is performed, or product is sold from the Demised Premises that is not specifically authorized by this Agreement, and such activity does not cease within ten (10) calendar days after Horizon's receipt of written notice by County's Port Everglades Department to that effect.

C. Then upon the occurrence of any event set forth in subsection B. hereinabove, or at any time thereafter during the continuance thereof, County, by its Board of County Commissioners, may, at its option, immediately terminate this Agreement and all rights of Horizon hereunder. County's Port Everglades Department Chief Executive/Port Director shall provide Horizon with notice of the effective termination date in writing. In the event of any such termination, Horizon and its sublessee(s) shall immediately quit and surrender the Demised Premises to County and shall cease operations at Port Everglades. Any such termination shall be without prejudice to any remedy for arrears of payments due hereunder or breach of covenant, or damages for the balance of the rent and minimum guaranteed payments payable

hereunder through the Term of this Agreement, or any other damages or remedies whatsoever at law or in equity available to County.

D. HABITUAL DEFAULT

Notwithstanding the foregoing, in the event Horizon defaults in the performance of any of the terms, covenants, and conditions required herein to be kept and performed by Horizon two (2) or more times in two (2) consecutive months, and regardless of whether Horizon has cured each individual condition of default, Horizon may be determined by County's Port Everglades Department Chief Executive/Port Director or designee to be a "habitual violator." At the time that such determination is made, Horizon shall be sent a written notice by County's Port Everglades Department Chief Executive/Port Director or designee advising of such determination and citing the circumstances therefor. The notice shall also advise Horizon that there shall be no further notice or grace periods to correct any subsequent default(s), and that any subsequent default(s) of whatever nature, taken with all previous default(s), shall be considered cumulative and collectively, and shall constitute a condition of noncurable default and grounds for immediate termination of this Agreement. In the event of any such subsequent default(s), County, by its Board of County Commissioners, may terminate this Agreement. County's Port Everglades Department Chief Executive/Port Director shall provide written notice to Horizon of the effective termination date.

E. TERMINATION WITHOUT NOTICE

The occurrence of any of the following during the Term hereof shall immediately confer upon County's Board of County Commissioners, in its sole discretion, the right to terminate this Agreement without notice:

1) Horizon or an officer, director, executive, partner, member, shareholder, employee, or agent who is active in the management of Horizon is found guilty or convicted of illegal conduct or activity (with or without an adjudication of guilt) as a result of a jury verdict, nonjury trial, entry of a plea of guilty or nolo contendere where the illegal conduct or activity (i) is considered to be a public entity crime as defined by Chapter 287, Florida Statutes, as amended; or (ii) is customarily considered to be a "white collar crime" or theft-related crime such as fraud, smuggling, bribery, embezzlement, or misappropriation of funds; or (iii) involves an act of moral turpitude meaning conduct or acts that tend to degrade principals or owners in society or bring them into public hatred, contempt, scorn, or ridicule, or that tends to shock, insult, or offend the community or ridicule public morals or decency or harm the image of County by virtue of its association with Horizon; or (iv) results in a felony conviction. Horizon understands and agrees that neither the resignation nor the termination of the offending person impairs County's right to terminate this Agreement without notice under this section; or

2) Suspension or revocation of Horizon's operations by a governmental unit or agency having jurisdiction over the Demised Premises and/or the business being conducted thereon, regardless of the length of such suspension or revocation.

F. NO WAIVER AND CUMULATIVE RIGHTS

County's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any default of a provision of this Agreement shall not be deemed a waiver of any subsequent default

and shall not be construed to be a modification of the terms of this Agreement. County and Horizon agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material provision hereof.

The rights of termination described above shall be in addition to any other rights provided in this Agreement and in addition to any rights and remedies that County has at law or in equity.

19. NOTICES

A. All notices required by this Agreement or by law shall be given in writing and shall be sent by registered or certified mail by depositing same in the United States Mail in the United States, postage prepaid, or by hand delivery or by overnight courier. Any notice mailed as provided hereunder shall be deemed effective and served as of the date of the mailing. Any notice given by hand delivery or overnight courier shall be deemed effective and served as of the date of delivery. County and Horizon shall have the right, by giving written notice to the other, to change the address to which notices are to be mailed or delivered. Until any such change is made, notices shall be mailed or delivered to:

FOR COUNTY:

Broward County's Port Everglades Dept.
ATTN: Chief Executive/Port Director
1850 Eller Drive
Fort Lauderdale, Florida 33316

FOR HORIZON TERMINAL
SERVICES LLC:

Per Folkesson, President
818 A1A North
Suite 304
Ponte Vedra Beach, Florida 32082

B. Any notices that shall be sent to Horizon shall also be sent to any approved leasehold mortgagee at the address set forth in the leasehold mortgage on file with County's Port Everglades Department, which address may change in the

manner provided below. It is the responsibility of Horizon and the approved leasehold mortgagee to ensure that the addresses on file with County's Port Everglades Department are and remain current. County's Port Everglades Department Chief Executive/Port Director or designee will send notices to the last address on file for both Horizon and the approved leasehold mortgagee. County shall not be held liable or be deemed to waive any of its rights in this Agreement for notices not received by Horizon or its approved leasehold mortgagee, provided proof of attempted delivery is made available to Horizon.

C. Horizon shall be required to notify County's Port Everglades Department, in writing, whenever there is a change in the address of Horizon and its approved leasehold mortgagee (to the place) for which notice is to be sent (giving notice), as required herein. In the event Horizon fails to maintain current addresses on record with County's Port Everglades Department as required herein, County shall be deemed to have notified Horizon and its approved leasehold mortgagee by using the last known addresses on record, and County shall not have any responsibility or obligation to investigate the validity of the addresses that Horizon has provided. As a result, Horizon agrees to indemnify and hold County harmless and defend County from any action, claim, demand, occurrence, or nonoccurrence as a result of Horizon and its leasehold mortgagee not receiving notice due to Horizon's failure to update the addresses for notification.

20. APPLICABLE LAW, JURISDICTION, VENUE, AND WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the

Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, HORIZON AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

21. RIGHT TO CONSTRUCT AND PERMIT RESPONSIBILITIES

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

B. Horizon expressly acknowledges and agrees that it shall not construct or install any permanent improvements on the portion of the Demised Premises depicted

in Exhibit A-3, attached hereto, over the Term of this Agreement. All permanent improvements made by Horizon to the warehouse space portion of the Demised Premises depicted in Exhibit A-2, attached hereto, specifically including improvements relating to a vehicular repair, maintenance, and painting facility valued at approximately Six Hundred Thousand Dollars (\$600,000), shall be at Horizon's sole cost and expense.

C. All permanent improvements made by Horizon on the portion of the Demised Premises depicted in Exhibit A-1 shall be at Horizon's sole cost and expense. As of the Commencement Date hereof, Horizon intends, at its sole cost and expense, to repave and reseal a portion of the Demised Premises depicted in Exhibit A-1. Horizon shall obtain all required approvals, including, but not limited to, construction, use and environmental permits, licenses, etc., from all agencies having jurisdiction over the Demised Premises for Horizon's proposed improvements and uses, including, but not limited to, departments, divisions, or offices of the City of Hollywood, Broward County, the State of Florida, and the federal government. Horizon expressly agrees to obtain all such permits and approvals (including, but not limited to, a National Environmental Pollution Discharge Elimination System permit and a Stormwater Pollution Prevention Plan) as required by the regulating agencies prior to its performance of any cleaning activities on the Demised Premises, and agrees that it shall, at its sole expense, install any facilities (such as oil/water stormwater separating systems) which may be required by said agencies, provided further that all requirements of Article 32 herein are met regarding improvements on the Demised Premises. Additionally, Horizon, at its sole expense, shall pay all license and permit fees and charges for the conduct of any business on the Demised Premises before such amounts become delinquent, and obtain and keep in full force and effect over the Term hereof, all applicable

governmental licenses and permits required to occupy and operate Horizon's business on the Demised Premises.

Horizon understands that it is solely responsible for obtaining all of the required permits, licenses, etc., for Horizon's proposed improvements and uses; however, County, in its capacity as owner of the Demised Premises, agrees to cooperate fully with Horizon's efforts to obtain such permits, licenses, etc., and in order to facilitate same, agrees to sign appropriate documents that require the signature of the property owner.

Horizon hereby releases and discharges County of and from any and all claims, demands, or causes of action which Horizon may now or at any time hereafter have against County relating in any way to or stemming from Horizon's inability or failure to obtain all the necessary permits, licenses, etc. (whether due to the condition of the Demised Premises or otherwise).

22. PER UNIT RATES AND ANNUAL MINIMUM GUARANTEED PAYMENT

A. PER UNIT RATES

Effective January 1, 2018, County and Horizon acknowledge and agree to the Per Unit Rate Schedule attached hereto as Composite Exhibit "B" and made a part hereof. A Unit, for the purposes of this Agreement, is derived utilizing the Tons to Unit Conversion Schedule attached hereto as Composite Exhibit "B." The Per Unit Rates do not include Port Everglades Tariff charges for dockage, harbormaster charges, security fees, electricity, water, line handling services, container crane rental charges and container crane standby charges, or any other Port Everglades Tariff charges not specifically identified as being included within the Per Unit Rates, all of which shall be billed separately by County to Horizon. The Per Unit Rate Schedule is based on

Horizon agreeing to make Annual Minimum Guaranteed Payments to County based on the number of Annual Minimum Guaranteed Units to be handled by Horizon on the Demised Premises for each Lease Year of this Agreement, as set forth in Composite Exhibit "B," attached hereto. The Per Unit Rates are in addition to all other required payments under this Agreement, including the rental payments required to be made by Horizon hereunder and are inclusive of Port Everglades Tariff charges for cargo wharfage.

B. ANNUAL ADJUSTMENT

Horizon's Per Unit Rates shall be adjusted annually, over the Term of this Agreement, on the Adjustment Date. The Per Unit Rates shall be increased to an amount equal to the lesser of: the product of the existing Per Unit Rates in place during the immediately preceding Lease Year multiplied by the "CPI Multiplier," as provided in Article 5 herein, or three percent (3%).

C. ANNUAL MINIMUM GUARANTEE PAYMENT

1) Effective upon the Commencement Date hereof, and for each and every successive Lease Year over the Term hereof, Horizon shall make Annual Minimum Guarantee Payments to County based on Annual Minimum Guaranteed Units as set forth in Composite Exhibit "B" attached hereto. For the first Lease Year of this Agreement, Horizon shall pay County the sum of Two Hundred Twenty-one Thousand Two Hundred Fifty Dollars (\$221,250) as Minimum Guaranteed Payment ("MGP"). The Parties hereto expressly acknowledge and agree that Horizon's annual MGP shall be adjusted for each and every successive Lease Year thereafter, on the Adjustment Date, in accordance with Composite Exhibit "B" attached hereto.

2) In addition to manifests and cargo reports required by Item 915 of the Port Everglades Tariff (which shall be provided by Horizon to County's Port Everglades Department within five (5) business days after a vessel call), Horizon shall report to County's Port Everglades Department on a monthly basis, the total number of units throughput on the Demised Premises handled by Horizon. The manifests and cargo reports shall be provided to said Department within five (5) business days after the end of each month and shall be in the form attached hereto as Exhibit "C" and made a part hereof. County's Port Everglades Department's Chief Executive/Port Director or designee reserves the right to request Horizon to periodically provide County's Port Everglades Department's Finance Division with such other cargo reports/records in order to maintain its statistical database.

3) The charges for Horizon's Units handled on the Demised Premises, and all other Port Everglades Tariff charges, plus applicable Florida sales tax, will be billed by County to Horizon monthly, and be paid by Horizon to County within thirty (30) calendar days after the date of each invoice in accordance with the billing procedures and requirements of the Port Everglades Tariff. The charges for Horizon Units billed by County to Horizon during each Lease Year will be credited towards meeting the required MGP for the Lease Year.

4) Within forty-five (45) calendar days after the end of each Lease Year over the Term hereof, County shall invoice Horizon for the MGP shortfall, if any, for the prior Lease Year. Within thirty (30) calendar days after the date of the MGP shortfall invoice from County's Port Everglades Department, Horizon shall pay County, in fulfillment of its MGP obligations, an amount equal to the

MGP shortfall, between the MGP required to be paid and the actual amount paid by Horizon to County for Units during the prior Lease Year.

23. SIGNAGE

A. PRIOR CONSENT

Horizon will not place, suffer to be placed, or maintain on the Demised Premises any sign, awning, canopy, or advertising matter without prior written consent of County's Port Everglades Department Chief Executive/Port Director or designee, which consent shall not be unreasonably withheld. If such consent is granted by County's Port Everglades Department Chief Executive/Port Director or designee, Horizon shall maintain such item(s) in good condition at all times and install same pursuant to the Port Everglades Development District Zoning Classification.

B. REMOVAL OF SIGNS

Upon the expiration or termination of this Agreement, Horizon shall remove, obliterate, or paint out, as County's Port Everglades Department Chief Executive/Port Director or designee may direct, any and all signs on the Demised Premises and, in connection therewith, shall restore the portion of the Demised Premises affected by such signs to the same condition as the same existed prior to the placing thereon. In the event of a failure on the part of Horizon to so remove, obliterate, or paint out each and every sign and to so restore the Demised Premises, County's Port Everglades Department may perform the necessary work, deduct the costs thereof from the Bond, and Horizon shall pay the cost shortfall, if any, to County within fifteen (15) calendar days after written demand therefor is sent.

24. PARKING

Horizon's use of parking spaces in Port Everglades shall be subject to and in

accordance with County's vehicle parking regulations set forth in the Port Everglades Tariff. Horizon shall be responsible for providing adequate parking facilities on the Demised Premises to include, but not be limited to, its employees, operators, and invitees.

25. SECURITY

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

26. SURRENDER AND ACCEPTANCE; REMOVAL OF PROPERTY

A. SURRENDER

Horizon covenants and agrees to promptly yield and deliver peaceably to County, on the termination date or expiration date of this Agreement as applicable, the Demised Premises in good condition, reasonable wear and tear excepted.

B. ACCEPTANCE OF SURRENDER

No agreement of surrender shall be valid unless and until the same shall have been reduced to writing and signed by the duly authorized representative of County, by its Board of County Commissioners, and Horizon in a document of equal dignity and formality herewith. Except as expressly provided in this Agreement, neither the doing of nor any failure to do any act or thing by any of the officers, agents, or employees of County shall be deemed an acceptance of a surrender of letting under this Agreement.

C. REMOVAL OF PROPERTY

Horizon shall have the right at any time, during the Term hereof, to remove its inventories and other personal property from the Demised Premises. If Horizon shall fail to remove its inventories and personal property from the Demised Premises by the termination or expiration date of this Agreement, then County shall pursue its available legal options, including, but not limited to: (i) title to same shall vest in County, at no cost to County; or (ii) County may remove such property to a public warehouse for deposit; or (iii) County may retain the same in its own possession and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage, and sale; and then to any sums owed by Horizon to County with any balance remaining to be paid to Horizon; or (iv) County's Port Everglades Department Chief Executive/Port Director or designee may dispose of such property in a manner permitted by Florida law. If the expenses of such removal, storage, and sale shall exceed the proceeds of sale, Horizon shall pay such excess to County within fifteen (15) calendar days after written demand therefor is sent. The provisions of this section shall survive the termination or expiration of this Agreement.

27. ENVIRONMENTAL IMPAIRMENT; CONTAINMENT AND REMOVAL

A. Horizon acknowledges and agrees that County makes no representations or warranties whatsoever as to whether Pollutants (as hereinafter defined) exist on or under the Demised Premises or the improvements thereon in violation of any federal, state, or local law, rule or regulation or in violation of any order or directives of any federal, state, or local court or entity with jurisdiction of such matter. The term "Pollutants" refers to and includes all derivatives or by-products of any one or more of the following terms as defined by applicable local, state, or federal laws or regulations: hazardous substances, hazardous materials, hazardous waste, toxic substances, toxic pollutants; or such other pollutants, contaminants, substances, materials and wastes as are or become regulated under applicable local, state, or federal laws or regulations. Horizon acknowledges, represents, and warrants to County that it has made sufficient inspection of the Demised Premises and the improvements thereon to satisfy itself as to the presence or absence of any such Pollutants. Horizon shall have no liability for any preexisting environmental impairments, liabilities, or conditions related to the Demised Premises and the improvements thereon not caused by Horizon, its agents, employees, or invitees. As of the Commencement Date of this Agreement, the Parties hereto acknowledge and agree that the environmental condition of the Demised Premises is as set forth and described in the environmental baseline report set forth in Exhibit D attached hereto and made a part hereof. Horizon shall not be liable for any migration of Pollutants and/or rise in the level of any Pollutants related to the Demised Premises not caused by Horizon, its agents, employees, or invitees. In the event Horizon is relocated to a new location as provided herein, the environmental baseline report for the relocated portion of the Demised Premises shall be prepared by County's Port Everglades

Department not less than thirty (30) calendar days after the date Horizon is to take occupancy of same. The completed environmental baseline report for the new location, shall be incorporated into this Agreement by an amendment to Exhibit D, approved by County's Port Everglades Department Chief Executive/Port Director and Horizon, and made a part hereof by reference hereto.

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

C. If County's Port Everglades Department arranges for the removal of any Pollutants in Port Everglades that were caused by Horizon, its sublessee(s), or any of

their officers, employees, contractors, subcontractors, invitees, or agents, the costs of such removal incurred by County shall be paid by Horizon to County immediately upon County's Port Everglades Department's written demand, with interest as is provided for under County's rules, regulations, and ordinances, including the Port Everglades Tariff, amendments thereto and reissues thereof.

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

E. In the event County's Port Everglades Department shall arrange for the removal of Pollutants on the Demised Premises that are not Horizon's responsibility to correct, and if County's remediation activities prevent Horizon from using the Demised Premises for its intended purposes, then from the date that the use of any portion of the

Demised Premises for its intended purposes is precluded and until the date said portion again becomes available for Horizon's use, rent payments shall be abated based on the current rental rate applicable to that portion of the Demised Premises rendered unusable. In no event shall Horizon be entitled to claim or seek from County any amount on account of lost profits, lost rentals, or other direct or consequential damages as a result of County's remediation activities.

F. The provisions of this section shall survive the expiration or termination of this Agreement.

28. INGRESS AND EGRESS

Horizon, its sublessee(s), invitees, licensees, agents, guests, contractors, suppliers of material and furnishers of services, shall have the right of ingress and egress via appropriate public ways to be used in common with others having rights of passage within Port Everglades, provided that County's Port Everglades Department may, from time to time, substitute other suitable means (considering Horizon's business operations) of ingress and egress, so long as an alternate adequate means of ingress and egress is available.

County's Port Everglades Department may, at any time, temporarily or permanently close or request the closing of any such street, roadway, and/or other area at Port Everglades presently or hereafter used as such, so long as an alternate adequate means of ingress and egress is made available to the Demised Premises (considering Horizon's business operations). Horizon hereby releases and discharges County, its successors and assigns, of and from any and all claims, demands, or causes of action which Horizon may now or at any time hereafter have against County arising or alleged to arise out of the temporary or permanent closing of any street,

roadway, or other area used as such, whether within or outside Port Everglades, provided that County makes available to the Demised Premises, an adequate means of ingress and egress (considering Horizon's business operations).

29. EASEMENT(S)

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

30. TARIFF CHARGES

Except as otherwise provided herein, nothing contained in this Agreement shall be construed to confer upon Horizon and its third-party user(s) of its facilities and services any special right with respect to the payment of charges imposed by the Port Everglades Tariff. Except as otherwise provided herein, Horizon shall pay County for the utilization of all facilities and services at Port Everglades in accordance with the charges and rates imposed by the Port Everglades Tariff. All Port Everglades Tariff charges and rates are in addition to all other required payments under this Agreement, including the rental payments to be made by Horizon hereunder.

31. HORIZON'S OBLIGATIONS

Horizon shall, at its sole expense:

A. Observe and obey, and require its employees, guests, invitees, and those doing business with it, to observe and obey such reasonable rules and regulations of County (including amendments and supplements thereto) governing the conduct and operations of Horizon and others on the Demised Premises as may from time to time be promulgated.

B. Obtain all required licenses and/or permits and pay all applicable fees and/or charges for the conduct of Horizon's business on and use of the Demised Premises.

C. Not cause or permit any welding or burning on the Demised Premises until all required permits have been obtained from County, the City of Hollywood, Florida, and the United States Coast Guard.

D. Not overload any paved area on the Demised Premises and repair any paved area damaged by such overloading.

E. Provide County's Port Everglades Department with immediate notice of any and all spills, leaks, or discharges of any size whatsoever of Pollutants (as defined in Article 27 herein) arising from its operations on and/or use of the Demised Premises or in Port Everglades, and further provide County's Port Everglades Department with not less than one (1) business day prior written notice of all curative measures, remediation efforts, and/or monitoring activities to be effectuated by Horizon.

F. As required by applicable laws, provide the relevant regulatory authorities with notice of any and all spills, leaks, or discharges of Pollutants on the Demised

Premises or in Port Everglades, and have an updated contingency plan in effect for such spills, leaks, or discharges.

G. Provide County's Port Everglades Department the right and ability to inspect all documents relating in any way to the Demised Premises and all activities thereon, including, but not limited to, writings regarding environmental issues, remediation efforts (such as manifests evidencing proper transportation and disposal of Pollutants, site assessments, sampling, and test results, etc.).

H. Queue truck traffic within the marine terminal facility to avoid, to the greatest extent possible, truck traffic queue on public roads and rights of way within Port Everglades.

I. Comply with all applicable written County's Port Everglades Department policy statements and directives ("Port Everglades Security Program") and all applicable federal, state, and local legal requirements, including without limitation, the following:

Horizon shall be responsible for compliance with federal, state, and local laws, rules and regulations, and such laws and regulations as may be imposed from time to time by the U.S. Coast Guard, U.S. Customs and Border Protection, Broward Sheriff's Office, or other federal, state or local agencies, and by County, with respect to seaport security, immigration, drug interdiction, and other import and export controls. Furthermore, Horizon, at its sole cost, shall be responsible for complying with all applicable federal, state, and local security-related measures placed on the Demised Premises. Horizon shall cause its employees, representatives, business invitees, subcontractors, and guests to comply with the requirements of this section, including, but not limited to, all requirements for the Federal Transportation Worker Identification Credential and any other state and local port access requirement, as applicable.

If as a result of an intentional or negligent act or omission of Horizon, its subcontractors, agents, employees, business invitees, or guests, County incurs any fines and/or penalties imposed or any expense in enforcing the Port Everglades Security Program and/or any fines or penalties imposed or any expense in enforcing the rules and regulations of other applicable security agencies, then Horizon agrees to pay and/or reimburse to County all such fines, penalties, costs, and expenses, including all costs of administrative proceedings, court costs, and reasonable attorney's fees incurred by County in enforcing this provision. Horizon further agrees to rectify any security deficiency caused by Horizon, its subcontractors, agents, employees, business invitees, or guests, or other deficiency as may be determined as such by County's Port Everglades Department Chief Executive/Port Director. In the event Horizon fails to remedy any such deficiency, County's Port Everglades Department may do so at the cost and expense of Horizon. County reserves the right to take whatever action is necessary to rectify any such security deficiency or other compliance deficiency. The provisions hereof shall survive the expiration or any other termination of this Agreement.

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

32. ALTERATIONS; FIXTURES; IMPROVEMENTS AND REQUIRED APPROVALS

A. GENERAL

Horizon shall not design, develop, construct, nor make any improvements, alterations, modifications, or replacements to the Demised Premises or portion thereof, without the prior written consent of County's Port Everglades Department Chief Executive/Port Director or designee, which written consent shall not be unreasonably withheld. In the event any such action is taken or made without County's Port Everglades Department Chief Executive/Port Director's or designee's prior written consent, then, upon notice in writing, Horizon shall remove same to County's Port Everglades Department's satisfaction. In the event Horizon fails to comply with the requirements of this section, said Department may effectuate the required removal or action, and Horizon shall pay the cost thereof to County within fifteen (15) calendar days after written demand therefor is sent.

B. TITLE TO IMPROVEMENTS AND FIXTURES; REMOVAL

All fixtures, structures, facilities, pavements, and other permanent improvements, and any additions and alterations made to the Demised Premises (including those that are nailed, bolted, stapled, or otherwise affixed to the Demised Premises) by Horizon, or at Horizon's direction, shall be and remain Horizon's property until the termination of this Agreement (whether by expiration or otherwise), at which time said improvements shall, at County's Port Everglades Department's option, either (i) become County's property and shall be surrendered with and remain on the Demised Premises, or (ii) be removed by Horizon at Horizon's expense. County's Port Everglades Department Chief Executive/Port Director or designee shall, at the time of his/her review and consent of Horizon's improvements, alterations, modifications, or replacements to the Demised

Premises, provide Horizon with written notification as to whether such improvements, alterations, modifications, or replacements shall remain on the Demised Premises or be removed by Horizon (at Horizon's expense) at the termination of this Agreement.

C. LIENS

Horizon shall not do or permit to be done anything that shall result in the imposition of any liens, claims, or encumbrances on the Demised Premises or portion thereof. If any lien or notice of lien shall be filed against the Demised Premises or portion thereof or any improvements thereon, Horizon shall cause the same to be discharged of record by payment, deposit, bond, or order of a court of competent jurisdiction within thirty (30) calendar days after notice of the filing thereof. Horizon shall not be deemed to be County's agent so as to confer upon any contractor or subcontractor providing labor and/or materials to the Demised Premises, a mechanic's lien upon County's estate under the provisions of Chapter 713, Florida Statutes, as amended from time to time.

The provisions of this subsection shall not apply to any mortgage of Horizon's interest in this Agreement to which County has consented as provided herein. Horizon shall not create or permit any lien on any fixtures affixed to the Demised Premises without obtaining, in each instance, the prior written approval of County's Board of County Commissioners excluding, however, any purchase money security interest in any movable trade fixtures installed at the Demised Premises.

Unless County, by its Board of County Commissioners, provides otherwise in writing, all of Horizon's assets that are brought onto the Demised Premises and used in connection with its business conducted on the Demised Premises shall be subject to County's landlord's lien on such assets.

D. CONSTRUCTION REQUIREMENTS

All of Horizon's construction on the Demised Premises shall be performed in such a manner as to provide that Horizon's improvements shall: (i) be safe and free from any hazards, and (ii) comply with all terms and provisions of this Agreement. All improvements constructed by Horizon, its agents, or contractors, including, but not limited to, the plans and specifications relating to same, shall conform to all applicable state, federal, County, and local statutes, ordinances, building codes, fire codes, and rules and regulations; provided, however, that review and consent by County's Port Everglades Department Chief Executive/Port Director of plans, specifications, or designs shall not constitute a representation or warranty as to such conformity, and the responsibility therefor shall at all times remain with Horizon. Any additions, alterations, or modifications to the Demised Premises shall be in conformity and consistent with the Americans with Disabilities Act of 1990, as may be amended from time to time.

Upon County's Port Everglades Department Chief Executive/Port Director's review and consent to Horizon's plans, specifications, and construction schedules, Horizon shall immediately begin construction and installation of its improvements to the Demised Premises. Horizon shall coordinate and install all such improvements in accordance with all permitting agency requirements as well as Florida Power & Light Company, and Horizon shall pursue same to substantial completion within six (6) months from the date of County's Port Everglades Department Chief Executive/Port Director's written review and consent. County's Port Everglades Department Chief Executive/Port Director may extend the time for substantial completion for good cause established by Horizon. Horizon and its architect/engineer and contractor agree to meet with County's Port Everglades Department Chief Executive/Port Director's

representatives in periodically scheduled meetings to assess the current status of completion of the construction and installation work undertaken by Horizon as provided herein.

Within sixty (60) calendar days after the final completion date of the construction and installation of Horizon's improvements on the Demised Premises, Horizon shall provide to County's Port Everglades Department at Horizon's sole expense: (i) a complete set of "as-built" plans and specifications for all improvements; (ii) a certificate or acknowledgment of completion from all permitting agencies reflecting that Horizon's improvements are complete and all permits are closed out; and (iii) a certified statement from the construction contractor(s), surety(ies), and architect(s) stating that the improvements are free and clear of all liens, claims, or encumbrances by any suppliers, subcontractors, or laborers.

Horizon shall furnish to County's Port Everglades Department within seven (7) calendar days after County's Port Everglades Department Chief Executive/Port Director's review and consent to Horizon's construction plans, specifications, and construction schedule as provided herein, (1) a Performance and Payment Bond, or (2) a Performance and Payment Guaranty, as follows:

1) Performance Bond and Payment Bond (Surety):

(i) A performance bond and payment bond in a form acceptable to County's Port Everglades Department.

(ii) The Bonds shall be in the amount of one hundred percent (100%) of the construction amount guaranteeing to County the completion and performance of the construction and development on the Demised Premises as provided in this Agreement, as well as full payment of all

suppliers, materialpersons, laborers, or subcontractors performing services in connection with the improvements to the Demised Premises. The Bonds shall be with a Surety company that is qualified pursuant to County's standards for Sureties on County construction projects as follows:

(a) Qualifications of Surety:

(1) A separate performance bond and payment bond must be executed by a Surety company of recognized standing, authorized to do business in the state of Florida as Surety, having a resident agent in the state of Florida and having been in business with a record of successful continuous operation for at least five (5) years.

(2) The Surety company shall hold a current certificate of authority as acceptable surety on federal bonds in accordance with United States Department of Treasury Circular 570, Current Revisions. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, revised October 16, 2014 (31 CFR Section 223.10, Section 223.111). Further, the Surety company shall provide

County with evidence satisfactory to County that such excess risk has been protected in an acceptable manner.

(3) The Surety company shall have at least the following minimum ratings in the latest revision of A.M. Best Company Rating Guide:

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

(iii) The Bonds shall continue in effect for one year after final completion and acceptance of the work with liability equal to one hundred percent (100%) of the construction price, or an additional bond shall be conditioned that Horizon will, upon notification by County's Port Everglades Department Chief Executive/Port Director, correct any defective or faulty work or materials which appear within one (1) year after final completion of the construction work.

2) Performance and Payment Guaranty:

In lieu of a performance bond and payment bond, Horizon may furnish an alternate form of security which may be in the form of cash, money order, certified check, cashier's check, or irrevocable letter of credit in a form approved by County's Port Everglades Department Chief Executive/Port Director or designee. Such alternate forms of security shall be for the same purpose and shall be subject to the same conditions as

those applicable above and shall be held by County and remain in effect for one (1) year after final completion and acceptance of the work.

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

33. DAMAGE BY CASUALTY

If the Demised Premises is damaged by casualty not caused by an act attributable to Horizon or County, and thereby become untenable, County's Port Everglades Department may elect to commence the required repairs within thirty (30) calendar days after the date of the casualty. If County's Port Everglades Department does not elect to commence the required repairs, Horizon may elect to commence with the required repairs and request the applicable insurance proceeds be released as required, to make timely payments for such needed repairs. If the required repairs to the Demised Premises are not commenced by either County or Horizon within ninety (90) calendar days after the date of the casualty, and the Demised Premises remains untenable, either County, by its Board of County Commissioners, or Horizon may elect to cancel this Agreement. In the event of such cancellation, all rentals and all other monetary payments required to be paid herein by Horizon shall be charged by County only to the date the Demised Premises became untenable due to the casualty.

It is expressly agreed and understood that County shall not be liable to Horizon for any damage to the Demised Premises caused by an intentional or negligent act or omission on the part of any third party in Port Everglades resulting in the breakage, leakage or obstruction of water, sewer, or soil pipes, or any other leakage on or about the Demised Premises. County shall take immediate action to enforce its contractual rights, if any, and pursue available remedies against any third party responsible for the damage.

34. TENANCY AFTER AGREEMENT TERM EXPIRES

It is agreed and understood that any holding over by Horizon after the expiration of this Agreement shall not renew and extend same, but shall operate and be construed as a tenancy from month to month, and Horizon agrees to pay to County the annual compensation and all other charges and payments required to be paid hereunder during any such holdover period. County's Port Everglades Department, at its option, may impose a higher rental amount during any holdover period as permitted by Florida law. Horizon shall be liable to County for all loss or damage on account of any such holding over against County's will after the expiration of this Agreement, whether such loss or damage may be contemplated at the execution of this Agreement or not. It is expressly agreed that acceptance of the foregoing payments by County, in the event that Horizon fails or refuses to surrender possession, shall not operate or give Horizon any right to remain in possession, nor shall it constitute a waiver by County of its right to immediate possession.

35. NONLIABILITY OF INDIVIDUALS

No commissioner, director, officer, agent, or employee of County shall be charged personally or held contractually liable by or to Horizon under any terms or

provisions of this Agreement or of any supplement, modification, or amendment to this Agreement or because of any breach thereof, or because of its or their execution or attempted execution.

36. COOPERATION WITH COUNTY

Horizon acknowledges that County will be seeking regulatory approvals (collectively, "Regulatory Approvals") consistent with its Airport Master Plan and subsequent updates (collectively, "Master Plan") and Federal Aviation Administration Record of Decision and subsequent updates (collectively, "ROD"), and Part 150 Study and subsequent updates (collectively, "Part 150 Study"), and the implementation thereof, which may include the following: (1) amendment of development agreements and orders; (2) agreements with the state of Florida and other agencies; (3) land use and zoning amendments; (4) preparation of environmental assessments and environmental impact statements; (5) such permitting as may be required by federal, state, County, or local regulations; and (6) any other Regulatory Approvals as may be required by any governmental authority having jurisdiction over the issuance of permits for the approval and implementation of the Master Plan, the ROD, and the Part 150 Study.

Horizon agrees to cooperate with County in connection with County's efforts to obtain the Regulatory Approvals. From and after the date of execution of this Agreement, Horizon covenants and agrees (i) to support County's efforts to obtain the Regulatory Approvals; and (ii) to execute any documents(s) or instrument(s) reasonably requested by County in order to assist County in obtaining the Regulatory Approvals, provided that Horizon shall not be required to bear any expense in connection therewith and Horizon shall not be deemed an agent of County.

37. GOVERNMENTAL/REGULATORY POWERS

County cannot, and hereby specifically does not, waive, or relinquish any of its governmental and regulatory approval or enforcement rights and obligations as it may relate to regulations governing the Demised Premises and any improvements thereon, and maritime related operations and activities at Port Everglades. Nothing in this Agreement shall be deemed to create an affirmative duty of County to abrogate its sovereign right to exercise its governmental powers and regulatory powers by approving or disapproving or taking any other action in accordance with its zoning and land use codes as amended, administrative codes as amended, ordinances as amended, rules and regulations as amended, federal laws and regulations as amended, state laws and regulations as amended, and grant agreements as amended.

38. GOVERNMENTAL IMMUNITY

Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by County nor shall anything included herein be construed as consent by County to be sued by third parties in any matter arising out of this Agreement.

39. COUNTY'S RIGHT TO RELOCATE HORIZON

County's Port Everglades Department, at its sole discretion, shall have the right to relocate Horizon, its personnel, equipment, and operations from either or both the ±5.67 acre parcel depicted in Exhibit A-1 attached hereto, or the ±3.0 acre parcel depicted in Exhibit A-3 attached hereto, to new location(s) at Port Everglades. In such case(s), County's Port Everglades Department shall provide Horizon with a new location of equivalent size and use to the then existing location(s). County's Port Everglades

Department shall provide Horizon with written notice of its election to relocate Horizon, and description of the new location(s) ("Relocation Notice"), no less than ninety (90) calendar days prior to the date on which such relocation is to become effective. County shall be required to pay all reasonable expenses associated with its relocation of Horizon from the ±5.67 acre parcel depicted in Exhibit A-1 attached hereto, pursuant to this section. Horizon shall be required to pay all reasonable expenses associated with its relocation from the ±3.0 parcel depicted in Exhibit A-3 attached hereto, pursuant to this section. In the event of such relocation(s), all provisions of this Agreement will apply with respect to the new location(s), excepting the description of the Demised Premises hereunder, which shall be revised by amending Exhibits A-1 and A-3, as applicable. All amended exhibits shall be approved by County's Port Everglades Department Chief Executive/Port Director and Horizon and made a part of this Agreement by reference hereto.

40. MISCELLANEOUS

A. TIME OF ESSENCE

Time is of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

B. INDEPENDENT CONTRACTOR/RELATIONSHIP OF PARTIES

Horizon is an independent contractor under this Agreement and the relationship of County and Horizon hereunder is that of County and Horizon only. In providing services under this Agreement, neither Horizon nor its agents shall act as officers, employees, or agents of County. This Agreement shall not constitute or make the Parties a partnership or joint venture. Horizon shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.

C. WAIVER OF CLAIMS

Horizon hereby waives any claim against County, its officers, and employees for loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of this Agreement or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement null, void, or voidable, or delaying the same or any part thereof, from being carried out.

D. AMENDMENTS

No modifications, amendments, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the County and Horizon.

E. EXECUTION AUTHORITY

The individuals executing this Agreement on behalf of Horizon personally warrant that they have full authority to execute this Agreement on behalf of Horizon for whom they are acting herein.

F. HEADINGS, CAPTIONS, AND TERMS

The article, section, and paragraph headings in this Agreement are inserted only as a matter of convenience and for reference, and in no way, define, limit, or describe the scope or intent of any provision hereof. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, section, or article where they appear, unless the context otherwise requires. Whenever reference is made to an article of this Agreement, such reference is to the article as a whole, including all of the sections, subsections, and subparagraphs of such article, unless the reference is made to a particular subsection or subparagraph of such article. Captions and article headings used in this Agreement

are for the convenience of reference of the Parties and shall not be deemed to define, limit, or in any way affect the meaning of any provisions of this Agreement.

G. GENDER

All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires.

H. INCORPORATION BY REFERENCE

Any and all "Whereas" clause set forth above are true and correct and are incorporated herein by reference. All attached exhibits are incorporated into and made a part of this Agreement.

I. SEVERABILITY

In the event a portion of this Agreement is found by a court of competent jurisdiction to be unenforceable, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect unless County or Horizon elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) calendar days after the finding by the court becomes final.

J. PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached hereto or referenced, or incorporated herein and any provision in Articles 1 through 40 of this Agreement, the provisions contained in Articles 1 through 40 shall prevail and be given effect.

K. SUCCESSORS AND ASSIGNS BOUND

This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto where permitted by this Agreement.

L. AGENT FOR SERVICE OF PROCESS

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

M. CUMULATIVE RIGHTS AND SURVIVAL

All rights and remedies of County hereunder, or at law or in equity, are cumulative and shall be in addition to any other rights and remedies available. The exercise of any right or remedy shall not be taken to exclude or waive the right to the exercise of any other. Failure by County to promptly exercise any of its rights shall not operate to forfeit or be treated as a waiver of any such rights.

Upon termination or expiration of this Agreement, Horizon shall remain liable for all obligations and liabilities that have accrued prior to the date of termination or expiration. Notwithstanding any provision of this Agreement to the contrary, NO

obligation, which accrued but has not been satisfied under any prior agreements between the Parties, shall terminate or be considered canceled upon execution of this Agreement. Rather, such obligation shall continue as if it had accrued under this Agreement until the obligation is satisfied.

N. SPECIFIC PERFORMANCE

In addition to all other remedies, Horizon's obligations contained herein shall be subject to the remedy of specific performance by appropriate action commenced in a court of proper jurisdiction.

O. JOINT PREPARATION

The Parties have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses the Parties' mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

P. UNCONTROLLABLE FORCES

Neither County nor Horizon shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the nonperforming party could not avoid. The term "Uncontrollable Forces" shall mean any event, which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to, fire, earthquakes, hurricanes, tornadoes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions. Any delay caused by an

Uncontrollable Force shall not be recognized unless Horizon shall notify County's Port Everglades Department in writing within ten (10) calendar days after the Uncontrollable Force event. Neither economic impracticability nor inability of Horizon to perform in whole or in part for economic reasons shall constitute an Uncontrollable Forces event.

Q. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, SUPPLIER DIVERSITY, AND AMERICANS WITH DISABILITIES ACT

Horizon shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. Horizon shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, Horizon shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

Horizon shall not engage in or commit any discriminatory practice in violation of the Broward County Human Rights Act (Chapter 16½, Broward County Code of Ordinances) in performing any services pursuant to this Agreement.

By execution of this Agreement, Horizon represents that it has not been placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes). County hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle County to terminate this

Agreement in accordance with the Default; Termination provision herein. Horizon voluntarily agrees to take affirmative steps to ensure that Broward County Business Enterprises (as defined in County's Broward County Business Opportunity Act of 2012) have a fair opportunity to be awarded vendor and supplier contracts through Horizon's purchasing activity in Broward County.

R. PUBLIC ENTITY CRIMES ACT

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

S. NO THIRD-PARTY BENEFICIARIES

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

T. RADON

Pursuant to Florida law, County hereby advises Horizon of the following: 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 Broward County Health Department.

U. CONFLICTS

Neither Horizon nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Horizon's loyal and conscientious exercise of judgment related to its performance under this Agreement.

V. MULTIPLE ORIGINALS

This Agreement may be fully executed in four (4) copies by the Parties, each of which, bearing original signatures, shall have the force and effect of an original document.

W. PRIOR AGREEMENTS

This Agreement represents the final and complete understanding of the Parties regarding the subject matter thereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ___ day of _____, 20___, and HORIZON TERMINAL SERVICES LLC, signing by and through its _____, duly authorized to execute same.

COUNTY:

ATTEST:

BROWARD COUNTY, by and through its Board of County Commissioners

Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

By _____
Mayor

_____ day of _____, 20__

Insurance requirements
approved by Broward County
Risk Management Division

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Port Everglades Department
1850 Eller Drive, Suite 502
Fort Lauderdale, Florida 33316
Telephone: (954) 523-3404
Telecopier: (954) 468-3609


By Carlos de la Guerra (Signature) 1-9-18 (Date)

CARLOS DE LA GUERRA
RISK MANAGEMENT & CON
BUSINESS ADMINISTRATION DIVISION
PORT EVERGLADES
Print Name and Title above

By Russell J. Morrison (Date) 1/9/18
Senior Assistant County Attorney

**MARINE TERMINAL LEASE AND OPERATING AGREEMENT BETWEEN
BROWARD COUNTY AND HORIZON TERMINAL SERVICES LLC**

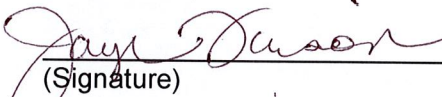
WITNESSES:



(Signature)

ANTHONY VRBIAN

(Print Name)



(Signature)

Jaye Faison

(Print Name)

HORIZON TERMINAL SERVICES LLC:

HORIZON TERMINAL SERVICES LLC, a
Delaware limited liability company authorized
to transact business in the state of Florida

By 

PER FOLKESSON, President

(Print Name and Title)

08 day of JANUARY, 2018

Exhibit "A-1"

LEGAL DESCRIPTION:

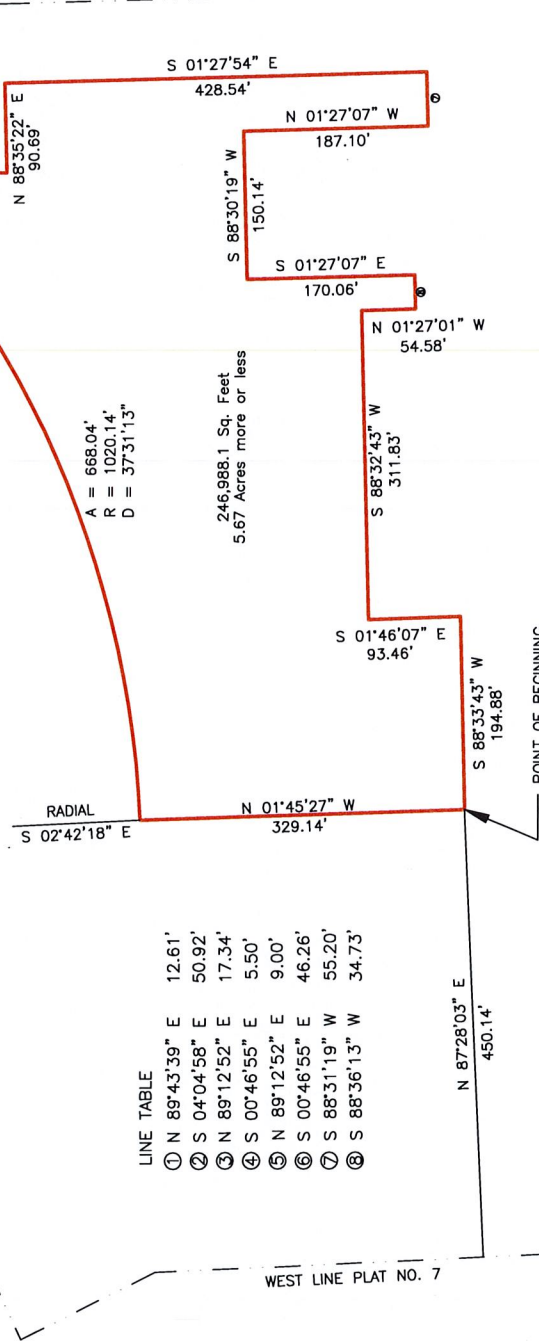
A PORTION OF PORT EVERGLADES PLAT NO. 7, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 145, PAGE 21, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA AND A PORTION OF PORT EVERGLADES PLAT 9, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 144, PAGE 24, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PORT EVERGLADES PLAT NO. 7; THENCE NORTH 02°31'57" WEST, ALONG THE WEST LINE OF SAID PORT EVERGLADES PLAT NO. 7, A DISTANCE OF 1018.94 FEET; THENCE NORTH 87°28'03" EAST, A DISTANCE OF 450.14 FEET TO THE POINT OF BEGINNING; THENCE NORTH 01°45'27" WEST, A DISTANCE OF 329.14 FEET TO A POINT ON A NON TANGENT CURVE TO THE LEFT, A RADIAL BEARING THROUGH SAID POINT BEARS SOUTH 02°42'18" EAST FROM THE RADIUS POINT; THENCE EASTERLY AND NORTHEASTERLY ALONG SAID CURVE TO THE LEFT, HAVING A RADIUS OF 1020.14 FEET, A CENTRAL ANGLE OF 37°31'13", FOR AN ARC DISTANCE OF 668.04 FEET; THENCE NORTH 89°43'39" EAST, A DISTANCE OF 12.61 FEET; THENCE SOUTH 04°04'58" EAST, A DISTANCE OF 50.92 FEET; THENCE NORTH 89°12'52" EAST, A DISTANCE OF 17.34 FEET; THENCE SOUTH 00°46'55" EAST, A DISTANCE OF 5.50 FEET; THENCE NORTH 89°12'52" EAST, A DISTANCE OF 9.00 FEET; THENCE SOUTH 00°46'55" EAST, A DISTANCE OF 46.26 FEET; THENCE NORTH 88°35'22" EAST, A DISTANCE OF 90.69 FEET; THENCE SOUTH 01°27'54" EAST, A DISTANCE OF 428.54 FEET; THENCE SOUTH 88°31'19" WEST, A DISTANCE OF 55.20 FEET; THENCE NORTH 01°27'07" WEST, A DISTANCE OF 187.10 FEET; THENCE SOUTH 88°30'19" WEST, A DISTANCE OF 150.14 FEET; THENCE SOUTH 01°27'07" EAST, A DISTANCE OF 170.06 FEET; THENCE SOUTH 88°36'13" WEST, A DISTANCE OF 34.73 FEET; THENCE NORTH 01°27'01" WEST, A DISTANCE OF 54.58 FEET; THENCE SOUTH 88°32'43" WEST, A DISTANCE OF 311.83 FEET; THENCE SOUTH 01°46'07" EAST, A DISTANCE OF 93.46 FEET; THENCE SOUTH 88°33'43" WEST, A DISTANCE OF 194.88 FEET TO THE POINT OF BEGINNING.

SAID LAND SITUATE WITHIN BROWARD COUNTY, FLORIDA, CONTAINING 246,988.1 SQUARE FEET (5.67 ACRES) MORE OR LESS.

PARCEL "A"
PORT EVERGLADE PLAT 9
P.B. 144, PG. 24 B.C.R.

PLAT LINE



LINE TABLE

①	N 89°43'39"	E	12.61'
②	S 04°04'58"	E	50.92'
③	N 89°12'52"	E	17.34'
④	S 00°46'55"	E	5.50'
⑤	N 89°12'52"	E	9.00'
⑥	S 00°46'55"	E	46.26'
⑦	S 88°31'19"	W	55.20'
⑧	S 88°36'13"	W	34.73'

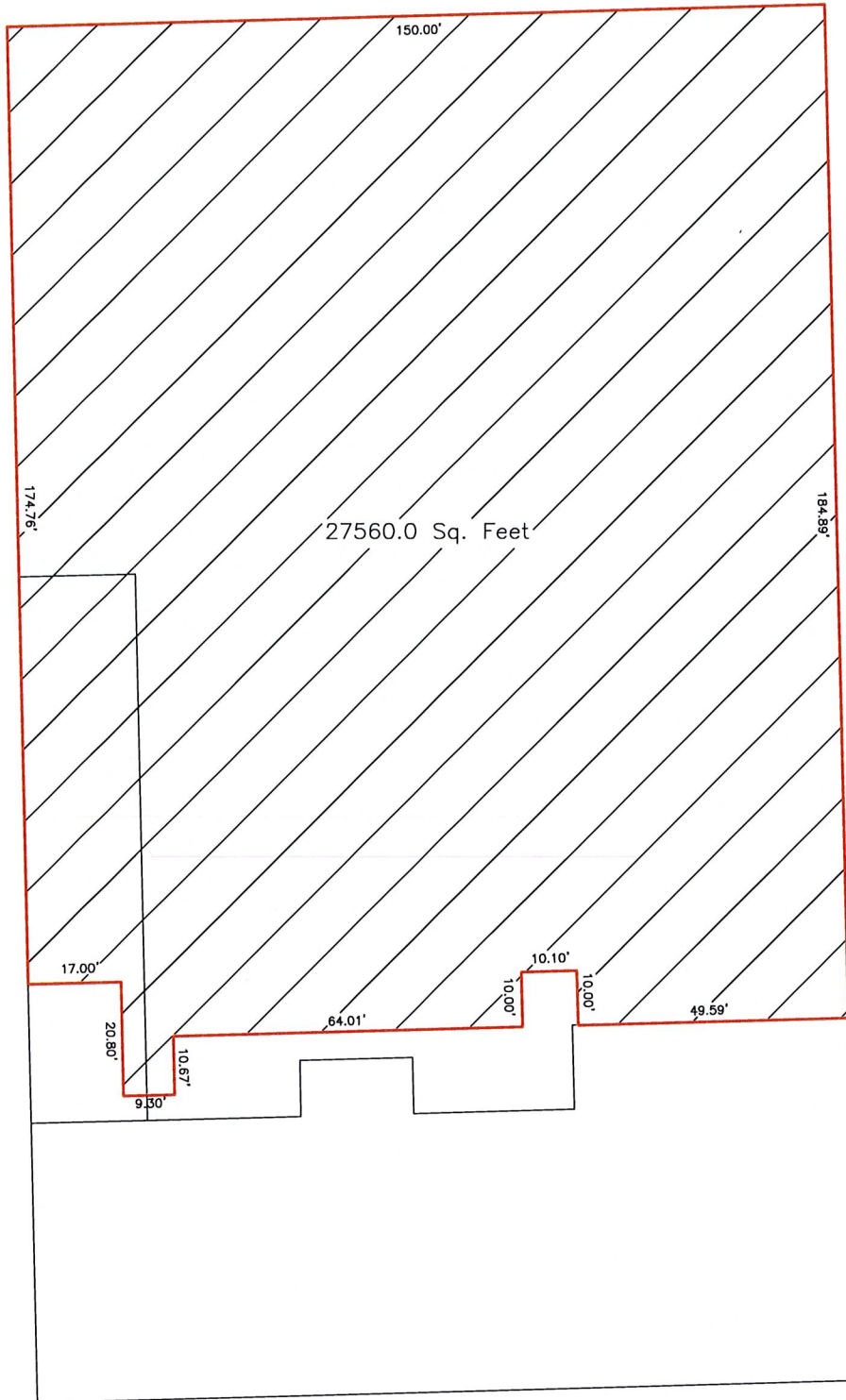
G:\port\SEAN\ENCOM\Matl\and Projects R2\ARCHIVE DRAWINGS\CH\QUITR\dwg\HORIZON OCT 2017.dwg

- NOTES:
1. THIS SKETCH OF DESCRIPTION DOES NOT REPRESENT A BOUNDARY SURVEY OF THE PROPERTY
 2. THE PROPERTY SHOWN HEREON WAS NOT ABSTRACTED FOR OWNERSHIP, RIGHTS-OF-WAY, EASEMENTS OR OTHER MATTERS OF RECORD, THIS IS NOT A SURVEY.
 3. SUBSURFACE UTILITIES, FOUNDATIONS, PIPELINES, ENCROACHMENTS, ETC. WERE NOT LOCATED AND ARE NOT SHOWN.
 4. BEARINGS SHOWN HEREON REFER TO PORT EVERGLADES PLAT NO. 7, P.B. 145, PG. 21, B.C.R.

BROWARD COUNTY
PORT EVERGLADES DEPARTMENT
Hollywood/FL Lauderdale/Dania

EXHIBIT A-1
LEASE TO HORIZON

DATE	11/09/17	SCALE	1"=200'	NO. OF SHEETS	1	OF	1
CHECKED		DRAWN		DATE			



G:\Port\SEA\ENG\CON\Matt\Land Projects.R2\ARCHIVE - DRAWINGS\CHIQUITA.dwg\HORIZON WAREHOUSE.dwg

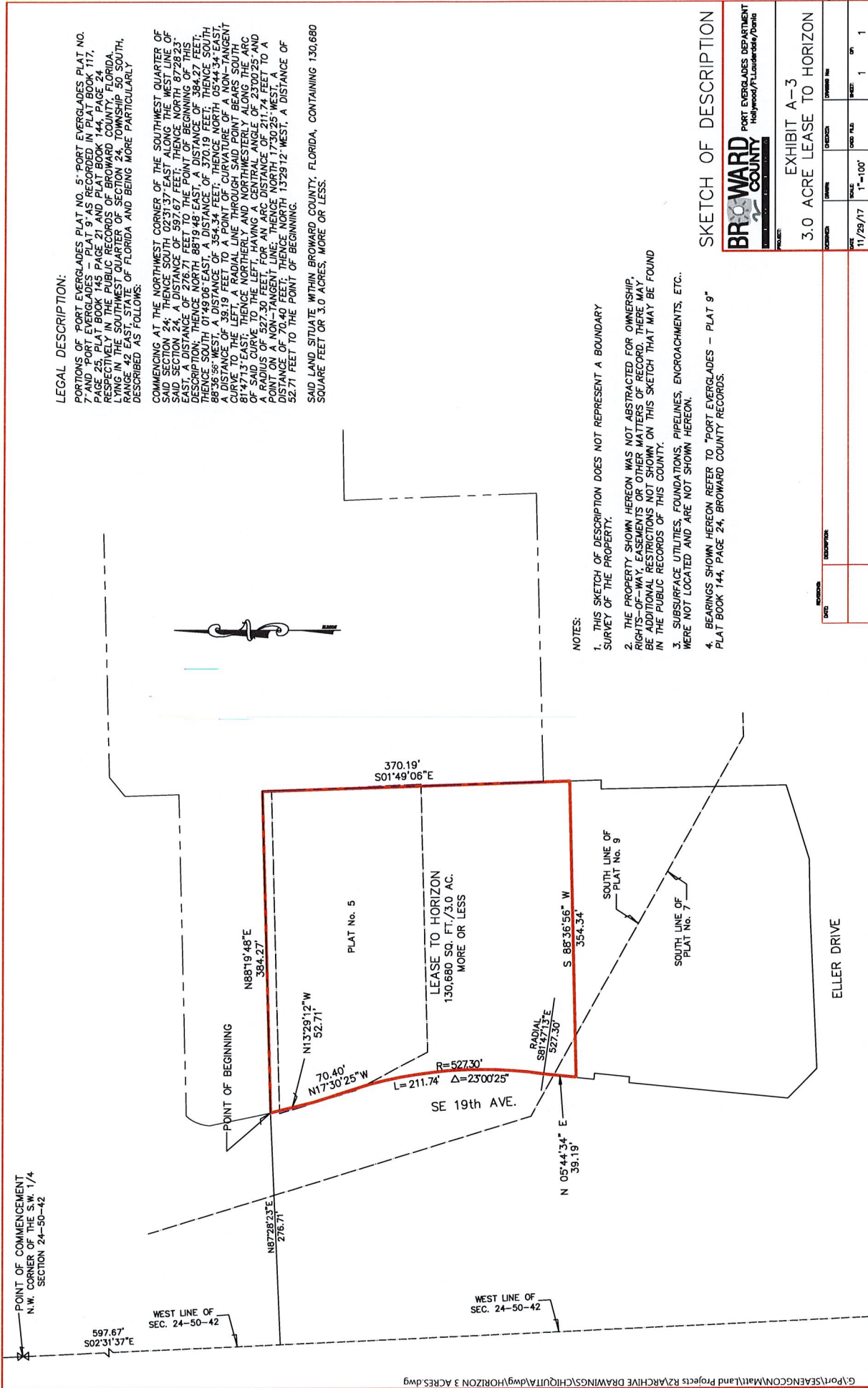
BROWARD COUNTY PORT EVERGLADES DEPARTMENT
Hollywood/Ft.Lauderdale/Dania
FLORIDA

PROJECT:
EXHIBIT A-2
PORTION OF BUILDING 28
LEASE TO HORIZON

DESIGNED:	DRAWN:	CHECKED:	DRAWING No:
DATE: 11/29/17	SCALE: NTS	CADD FILE:	SHEET: 1 OF 1

REVISIONS:			
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Exhibit "A-3"



LEGAL DESCRIPTION:
PORTIONS OF PORT EVERGLADES PLAT NO. 5, PORT EVERGLADES PLAT NO. 7, PORT EVERGLADES PLAT NO. 9, PORT EVERGLADES PLAT NO. 117, PAGE 25, PLAT BOOK 143, PAGE 21, AND PLAT BOOK 143, PAGE 20, RESPECTIVELY IN THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LYING IN THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 50 SOUTH, RANGE 42 EAST, STATE OF FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 24; THENCE SOUTH 02°31'37" EAST, ALONG THE WEST LINE OF SAID SECTION 24, A DISTANCE OF 597.67 FEET; THENCE NORTH 87°28'23" EAST, A DISTANCE OF 276.71 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 88°19'48" EAST, A DISTANCE OF 384.27 FEET; THENCE SOUTH 01°49'06" EAST, A DISTANCE OF 370.19 FEET; THENCE SOUTH 88°36'56" WEST, A DISTANCE OF 354.34 FEET; THENCE SOUTH 05°44'34" EAST, A DISTANCE OF 39.19 FEET TO A POINT BEARING SOUTH 88°36'56" WEST, A DISTANCE OF 354.34 FEET TO THE POINT OF BEGINNING OF THIS CURVE TO THE LEFT, A RADIAL LINE THROUGH SAID POINT BEARS SOUTH 81°47'13" EAST; THENCE NORTHERLY AND NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 23°00'25" AND A RADIUS OF 527.30 FEET, FOR AN ARC DISTANCE OF 211.74 FEET TO A POINT OF COMMENCEMENT OF THIS CURVE; THENCE NORTH 17°30'25" WEST, A DISTANCE OF 70.40 FEET TO THE POINT OF BEGINNING.

SAID LAND SITUATE WITHIN BROWARD COUNTY, FLORIDA, CONTAINING 130,680 SQUARE FEET OR 3.0 ACRES, MORE OR LESS.

NOTES:

1. THIS SKETCH OF DESCRIPTION DOES NOT REPRESENT A BOUNDARY SURVEY OF THE PROPERTY.
2. THE PROPERTY SHOWN HEREON WAS NOT ABSTRACTED FOR OWNERSHIP, RIGHTS OR INTERESTS OR OTHER MATTERS OF RECORD, THERE MAY BE ADDITIONAL RESTRICTIONS ON THIS SKETCH THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.
3. SUBSURFACE UTILITIES, FOUNDATIONS, PIPELINES, ENCROACHMENTS, ETC., WERE NOT LOCATED AND ARE NOT SHOWN HEREON.
4. BEARINGS SHOWN HEREON REFER TO "PORT EVERGLADES - PLAT 9" PLAT BOOK 144, PAGE 24, BROWARD COUNTY RECORDS.

SKETCH OF DESCRIPTION

BROWARD COUNTY
PORT EVERGLADES DEPARTMENT
Hollywood/Plantation/Punta Riega

PROJECT: EXHIBIT A-3
3.0 ACRE LEASE TO HORIZON

DATE	DESCRIPTION	DATE	DESCRIPTION
11/29/17			

DATE	DESCRIPTION	DATE	DESCRIPTION

Composite Exhibit "B"

Lease Year	Per Unit Rate	Annual Minimum Guaranteed Units	Annual Minimum Guaranteed Payment
1	\$ 7.50	29,500	\$ 221,250
2	\$ 7.65	29,500	\$ 225,675
3	\$ 7.80	29,500	\$ 230,189
4	\$ 7.96	29,500	\$ 234,792
5	\$ 8.12	29,500	\$ 239,488

Note: Lease Years 2-5 Per Unit Rates are notional rates based on CPI average adjustment of 2%.

Actual rates and MAG will be calculated each year based on CPI adjustment defined in Agreement

Composite Exhibit "B"

Tons to Unit Conversion Schedule

Short Tons	Units
0.00-2.00	1
2.01-4.00	2
4.01-6.00	3
6.01-8.00	4
8.01-10.00	5
10.01-12.00	6
12.01-14.00	7
14.01-16.00	8
16.01-18.00	9
18.01-20.00	10
20.01-22.00	11
22.01-24.00	12
24.01-26.00	13
26.01-28.00	14
28.01-30.00	15
30.01-32.00	16
32.01-34.00	17
34.01-36.00	18
36.01-38.00	19
38.01-40.00	20
40.01-42.00	21
42.01-44.00	22
44.01-46.00	23
46.01-48.00	24
48.01-50.00	25

EXHIBIT "C"
PORT EVERGLADES, DEPARTMENT of BROWARD COUNTY

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

VESSEL CARGO REPORT

AGENT: HORIZON TERMINAL SERVICES, LLC

LINE:

VESSEL NAME:

ARV Date:

DEP Date:

Vessel Sharing Agreement:

YES

NO

(If yes, indicate lines):

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

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

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

Prepared by and Certified in Accordance with Ship's Manifest (Signature of _____)

Contact No: _____

Email address: _____

Date: _____

*Note: Total quantity of units is equal to the total break bulk weight in short tons divided by two (2) and rounded up to the nearest whole number.
EXHIBIT C- Vessel Cargo Report - revised (11/29/2017)



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

**EXHIBIT "D"
MEMORANDUM**

Date: November 29, 2017

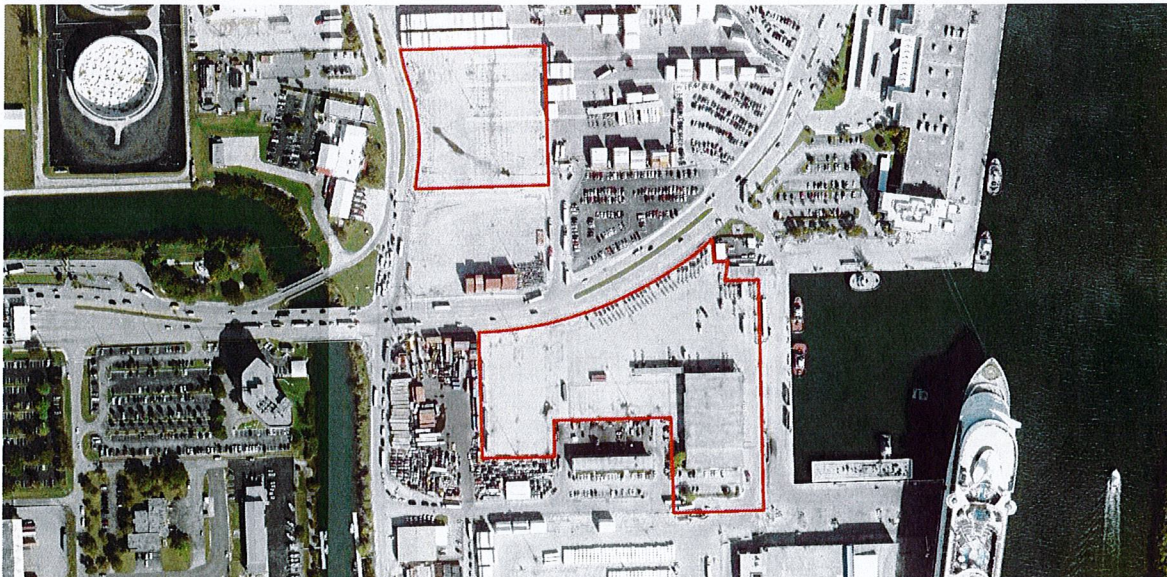
To: Loren Fourness, Property Manager

From: Erik Neugaard, Environmental Program Manager

Subject: Horizon Terminals Lease - Environmental Baseline

On November 21, 2017, a visual inspection of the Horizon Terminals site was conducted by Erik Neugaard, Port Everglades Environmental Program Manager, to identify obvious environmental concerns.

The inspection included the red-bounded areas shown below. Most observations were made from a pickup truck, except all accessible storm drains were visually inspected from above for obvious signs of surface water contamination, such as globules of free floating product or sheen, and the interior of the warehouse area was inspected while walking through it. Historical aerial photographs from 12/31/03, 11/30/05, 02/28/06, 01/19/07, 05/07/07, 12/30/08, 03/31/10, 12/31/09, 03/26/11, 10/19/12, 03/06/13, 01/18/14, 04/02/14, 12/15/14, 01/23/16, 03/21/17, and 04/06/17 were also reviewed to identify obvious environmental concerns.



Horizon Terminals Lease - Environmental Baseline
November 27, 2017
Page 2

Background and Discussion

A Preliminary Phase I Environmental Site Assessment (ESA) and Limited Phase II ESA Recommendations for red-bounded area south of Eller Drive were completed on 08/04/03. It contains a historical assessment of activities that occurred prior to 2003. Subsequently, a Limited Phase II ESA was completed in 09/03, which included soil and groundwater analytical result. Copies of these documents as well as related correspondence between Port Everglades and Chiquita Brands Company of North America are available upon request from the Seaport Engineering and Facilities Maintenance Division.

The Limited Phase II ESA concluded:

- Analysis of the groundwater sample collected from Soil Boring 3 at 6 feet - 10 feet below land surface revealed a concentration of 9.69 ug/L vinyl chloride, which exceeded the Groundwater Cleanup Target Level (GCTL) of 1 ug/L, but did not exceed the Natural Attenuation Default Source Concentration (NADSC) of 100 ug/L.
- The presence of low concentrations of vinyl chloride in one shallow groundwater sample at a parcel of land does not provide sufficient information by which a conclusion can be drawn regarding the quality of groundwater beneath that parcel. Additional investigation is recommended to further assess the area surrounding this point.

On 10/23/03, Port Everglades sent an email to Chiquita Brands Company of North America stating:

- Port staff has reviewed the document referenced above and has noted the limited presence of vinyl chloride in shallow groundwater well SB-3. As the concentration is limited in value (9.69ug/L), it does not appear to pose a major concern. The level does exceed the GCTL but is considerably lower than the NADSC.
- Your consultant offers the suggestion of providing more monitoring wells to delineate the extent of the area exhibiting the vinyl chloride. The Port does not know how this material has gotten to this area but believes, that over time, the levels will be reduced in concentration as a result of natural attenuation. It should be realized that there are no potable drinking water sources within the boundaries of the Port and that this material is prevented from entering the surrounding waterways as a result of our bulkheads, therefore posing a very low health risk, if any.
- Therefore, the Port offers the suggestions that there is no need for additional sampling or monitoring and, if acceptable to you, would note the presence of this substance but will not hold Chiquita Brands liable for its presence at this location.

The red-bounded area south of Eller Drive (former Chiquita Brands) is also licensed by the Broward County Department of Environmental Protection and Growth Management Department (EPGMD) as a Hazardous Material Management Facility (POSSEE Facility Number 07958) and is regularly inspected by EPGMD. The latest inspection report, dated 10/05/17, which did not identify any significant contamination concerns, is available upon request from the Seaport Engineering and Facilities Maintenance Division.

The purpose of the inspection conducted on November 21, 2017, as well as the review of aerial photographs taken after September 2003, was to determine if any significant contamination concerns has occurred on the site since the Preliminary Phase I ESA and Limited Phase II ESA was completed in 2003.

Representative photos from the visual inspection of the site conducted 11/21/17 are available upon request from the Seaport Engineering and Facilities Maintenance Division.

Findings

No indication of significant contamination was observed, and no additional action is required.