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**FMC Agreement No.** 201173

**UMS – P&O Ports Marine Terminal Agreement**

**between**

**Universal Maritime Service Corporation**

**and**

**P&O Ports North America, Inc.**

**A Marine Terminal Discussion Agreement**

**Expiration: See Article 6**



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This Agreement is entered into this 1<sup>st</sup> day of September, 2006 between the parties listed in Appendix I hereof.

**WITNESSETH THAT**

**WHEREAS**, each of the parties hereto is a private marine terminal operator which owns or operates marine terminal facilities at port of Baltimore, Maryland area which provide marine terminal services to ocean common carriers; and

**WHEREAS**, the parties have common interests in facilitating the efficient movement of cargo through ports in Baltimore and believe that through discussion and agreement between themselves they can enhance their efficiency and operations to benefit their respective customers.

**NOW, THEREFORE**, in consideration of the mutual undertakings by the parties, it is hereby agreed as follows:

**ARTICLE 1/           NAME OF AGREEMENT**

This Agreement shall be referred to as the "UMS-P&O Ports Marine Terminal Agreement" (the "Agreement").

**ARTICLE 2.           AGREEMENT AUTHORITY**

- 2.1 The parties to this Agreement are authorized to undertake the following activities:
- a. to obtain, compile, maintain, exchange and discuss information, whether past, current or anticipated, including records, statistics, studies, data, and documents of any kind or nature, whether prepared by the parties or obtained from outside sources, which relate to operation of the parties' marine terminal facilities in the Baltimore area.
  - b. to discuss and agree on the nature, type and capacity of marine terminal facilities that each shall operate in the Baltimore area;
  - c. to discuss and agree on the development or improvement of port infrastructure including public highway and rail access to their respective facilities in the Baltimore area;
  - d. to discuss and agree on the rationalization of port facilities in the

Baltimore area so as to reduce costs and expenses, including, without limitation, administrative costs in operating and managing their respective facilities and joint operations of gate facilities and joint use of an administration building;

- e. to discuss and agree on the development of a common facility for the storage of chassis and a system for monitoring the exit and entry of such chassis from that facility;
- f. to discuss and agree on issues relating to port administration, legislation, dredging and other policy issues of concern to the marine terminal industry;
- g. to discuss development of facilities and future requirements; and
- h. To discuss common approaches towards the Maryland Port Authority.
- h. to discuss matters related to or ancillary to any of the foregoing.

2.2. All of the activities authorized hereunder shall be voluntary and non-binding.

2.3 Nothing herein is intended to permit the parties to implement any agreement reached hereunder or to take any joint action. The parties understand that any agreements they may desire to implement, if subject to the jurisdiction of the Federal Maritime Commission shall be filed with the Commission and shall become effective in accordance with the provisions of the Shipping Act of 1984, as amended and applicable FMC regulations.

### ARTICLE 3. MEMBERSHIP

The current members are the parties hereto.

### ARTICLE 4. MEETINGS AND ADMINISTRATIVE MATTERS

- 4.1 While it is intended that meetings will occur in person with all members present, if possible, meetings may also be held by telephone conference or video conference. Meetings may be chaired by any person designated by the parties. Meetings shall take place at such times and in such places as the parties may from time to time agree.

- 4.2 Each party shall bear its own expenses for travel to and attendance at meetings. General expenses for meetings and other agreement expenses, including, but not limited to, legal and regulatory expenses, shall be apportioned by the parties on such terms as they may from time to time agree.
- 4.3 The parties may establish such committees as they deem necessary or appropriate and such committees shall meet as necessary to accomplish their assignment.

#### ARTICLE 5. VOTING

All decisions taken under this Agreement shall be by mutual agreement of the parties. Voting on any matter may be accomplished by voice vote at meetings, by telephone polls, by facsimile or by electronic communications.

#### ARTICLE 6. EFFECTIVE DATE, DURATION AND WITHDRAWAL

- 6.1 This Agreement shall become effective as of the date it becomes effective under the Shipping Act of 1984, as amended.
- 6.2 This Agreement shall continue in effect indefinitely and may be terminated by mutual agreement. Prompt notice of termination will be provided to the Federal Maritime Commission.
- 6.3 Any party may unilaterally terminate this Agreement at any time upon thirty (30) days' written notice to the other party. The notice of withdrawal shall be provided to the other party in writing. A withdrawing party shall remain liable for its share of agreement expenses incurred prior to the date of withdrawal.

#### ARTICLE 7. AMENDMENTS

This Agreement may be amended by mutual agreement of all the parties. No amendment shall take effect unless it is in writing, signed by the parties and has been filed with the Federal Maritime Commission and become effective under the Shipping Act of 1984, as amended.

#### ARTICLE 8. CONFIDENTIALITY

The parties agree that information exchanged under this Agreement may contain non-

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public, confidential business information and trade secrets. The parties shall treat all information exchanged hereunder, whether in oral or written form as confidential. The parties recognize that such confidentiality may be limited by legal requirements applicable to each individual party under Federal or local statutory requirements applicable to public agencies or if required by subpoena. The parties also agree that such information is not confidential if it is already publicly available or if it was obtained from a third party who did not violate any confidentiality obligation to either party hereto. The parties further agree not to make any public statements or issue any press releases without the written consent of the other party. The obligations contained in this Agreement shall terminate three (3) years from the date any confidential information comes into the possession of either party.

**ARTICLE 9. NOTICES**

Any Notice permitted or required under this Agreement shall be given in writing and delivered by first class mail, postage prepaid, or by facsimile, or by other electronic means, to the other parties at the addresses shown in Appendix 1 hereof. Each party shall have the affirmative obligation to notify the other party of any change of address.

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**SIGNATURE PAGE**

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

P&O Ports North America, Inc.

Universal Maritime Service  
Corporation

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

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

Name:  
Title:

Name:  
Title:

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SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

P&O Ports North America, Inc.

Universal Maritime Service Corporation

By: 

By: 

Name: Mark Montgomery  
Title: Senior Vice President

Name: AA Scioscia  
Title: President

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**APPENDIX I**

**NOTICES**

P&O Ports North America, Inc.  
99 Wood Avenue South, 8th Floor  
Iselin, NJ 08830

Universal Maritime Service Corporation  
6000 Carnegie Boulevard  
Charlotte, NC 28209  
Attention: Chief Financial Officer