

201132-009

Port Authority Lease No. L-PN-264  
Supplement No. 9

**SUPPLEMENTAL AGREEMENT**

**THIS AGREEMENT**, made as of March 13, 2007, by and between **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** (hereinafter called "the Port Authority") and **PORT NEWARK CONTAINER TERMINAL LLC** (hereinafter called "the Lessee"),

**WITNESSETH**, That:

**WHEREAS**, heretofore and as of December 1, 2000, the Port Authority and the Lessee entered into an agreement of lease (hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease") covering premises at Port Newark, in the City of Newark, County of Essex and State of New Jersey; and

**WHEREAS**, the Port Authority and the Lessee desire to amend the Lease;

**NOW, THEREFORE**, for and in consideration of the foregoing and the agreements hereinafter contained, the Port Authority and the Lessee hereby agree as follows:

1. Section 48 of the Lease requires approval by the Port Authority of certain changes in the ownership or control of the Lessee and of certain entities having direct or indirect beneficial ownership of the Lessee. The Lessee has requested on a without prejudice basis that the Port Authority grant its approval to the following transfers and acquisitions: (a) the acquisition in August 2005 of Nedlloyd Holding B.V. (formerly known as Royal P&O Nedlloyd N.V.) by A.P. Moller-Maersk AS (hereinafter called "the Nedlloyd Acquisition"); (b) the acquisition in March 2006 of the stock of The Peninsular and Oriental Steam Navigation Company (hereinafter called "P&O") by Thunder FZE, a wholly-owned subsidiary of Dubai Ports World (hereinafter called "DPW"), pursuant to court sanctioned schemes of arrangement under section 425 of the Companies Act 1985, England and Wales (hereinafter called "the P&O Acquisition"); (c) the acquisition on a date and time subsequent to the date first above written (which subsequent date and time are hereinafter collectively called "the Closing Date") by P&O Ports North America, Inc. (hereinafter called "POPNA") of the 50% membership interest (constituting 500 membership units) in the Lessee owned by Farrell Lines Incorporated (hereinafter called "Farrell") pursuant to a Sale and Purchase Agreement dated November 20, 2006 by and among Farrell, POPNA, P&O and the Lessee (hereinafter called "the Farrell Acquisition"); and (d) the acquisition on the Closing Date by Ports America, Inc. (hereinafter called "Ports America"), a wholly-owned subsidiary of AIG Global Asset Management Holdings Corp. (hereinafter called "AIGGIG"), of all of the outstanding stock of POPNA from P&O Holdings, Inc., an indirect subsidiary of P&O and DPW (hereinafter called "Holdings"), pursuant to that certain Stock Purchase Agreement dated December 10, 2006, by and among P&O, Holdings, Ports America and AIGGIG (hereinafter called "the POPNA Acquisition" and, together with the Nedlloyd Acquisition, the P&O Acquisition and the Farrell Acquisition, hereinafter collectively called "the Acquisitions"). The Lessee hereby represents, knowing that the Port Authority is relying on the accuracy of such representation, that, immediately following

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the Closing Date, the Lessee's ownership and control shall be as set forth in Section 48 of the Lease, as such provision is restated, amended and set forth in the paragraph 3 of this Agreement.

2. The Port Authority hereby grants its approval to the transfers of and changes in ownership and control of the Lessee represented by the Acquisitions, with such approval to be granted *nunc pro tunc* to the date of each Acquisition under Section 48 of the Lease; *provided, however*, that such approval shall be effective as to any of the Acquisitions only if all of the Acquisitions are completed.

3. Immediately following the completion of the Farrell Acquisition and the POPNA Acquisition, Section 48 of the Lease, as amended by Supplement No. 2 to the Lease, shall be deleted and terminated in its entirety and replaced with a new Section 48, which reads as follows:

"Section 48. Right of Termination - Ownership and Control

(a) (1) The Lessee hereby represents, knowing that the Port Authority is relying on the accuracy of such representation, that it is a limited liability company organized and existing under the laws of the State of Delaware, that one thousand (1,000) membership interests constitute all of its existing membership interests, and that the owner of all of the membership interests is P&O Ports North America Inc. (hereinafter called "POPNA"), a corporation organized and existing under the laws of the State of Delaware and having an office and place of business at 99 Wood Avenue South, 8<sup>th</sup> Floor, Iselin, New Jersey 08830, that there are no other membership interests in the Lessee, and that there are no other individuals or corporations and no partnerships or other entities, except as later set forth in this Section, having any direct or indirect beneficial ownership of the Lessee.

(2) The Lessee hereby represents, knowing that the Port Authority is relying on the accuracy of such representation, that:

(i) On the date hereof: (A) one hundred percent (100%) of the outstanding capital stock of POPNA is owned by Ports America, Inc. (hereinafter called "PAI"), a corporation organized and existing under the laws of the State of Delaware and having an office and place of business at 70 Pine Street, New York, New York 10270; and no person other than PAI controls POPNA; (B) one hundred percent (100%) of the outstanding voting securities of PAI is owned by AIG Ports America, Inc. (hereinafter called "AIGPA"), a corporation organized and existing under the laws of the State of Delaware and having an office and place of business at 70 Pine Street, New York, New York 10270; and no person other than AIGPA controls PAI; and (C) one hundred percent (100%) of the outstanding capital stock of AIGPA is owned by AIG Global Asset Management Holdings Corp. (hereinafter called "AIGGIG"), a corporation organized and existing under the laws of the State of Delaware and having an office and place of business at 70 Pine Street, New York, New York 10270, and no person other than AIGGIG controls AIGPA.

(ii) On the date hereof, American International Group, Inc. ("AIG Parent"), a corporation organized and existing under the laws of the State of Delaware and having an office and place of business at 70 Pine Street, New York, New York 10270, owns directly or indirectly, a majority of the outstanding voting securities of AIGGIG and AIG Parent controls AIGGIG.

(iii) It is expressly agreed by the Port Authority that at any time after the date hereof, AIGGIG and AIGPA may create a class of non-voting securities in PAI and transfer any of such non-voting securities in PAI to one or more Affiliates (including AIG Highstar Capital III, L.P.), provided that (A) AIGGIG shall give the Port Authority written notice of any such transfer, and (B) the representations in clauses (a)(2)(i) and (a)(2)(ii) above continue to be true in all respects as of such date.

(3) The Lessee recognizes the fact that a transfer of securities in the Lessee or of a substantial part thereof, or any other act or transaction involving or resulting in a change in the ownership or distribution of such securities or with respect to the identity of the parties in control of the Lessee or the degree thereof, is for practical purposes a transfer or disposition of the rights obtained by the Lessee through this Agreement. The Lessee further recognizes that because of the nature of the obligations of the Lessee hereunder, the qualifications and identity of the Lessee and its security holders are of particular concern to the Port Authority. The Lessee also recognizes that it is because of such qualifications and identity that the Port Authority is entering into this Agreement and, in doing so, is willing to accept and rely on the Lessee for the faithful performance of all obligations and covenants hereunder. Therefore, the Lessee represents and agrees for itself and POPNA, and any successor in interest thereof, respectively, that without the prior written approval of the Port Authority, there shall be no transfer of any securities in the Lessee by POPNA to any other person; nor shall POPNA suffer any transfer to be made; nor shall there be or be suffered to be made by the Lessee or by any owner of securities therein, any other change in the ownership of such securities or in the relative distribution thereof, or with respect to the identity of the parties in control of the Lessee or the degree thereof, by any other method or means, whether by increased capitalization, merger with another entity, amendments to the operating agreement or otherwise, issuance of additional new securities or classification of securities or otherwise; and the Lessee further represents and agrees for itself and POPNA, and any successor in interest thereof, respectively, that the direct ownership and control of the Lessee shall be as set forth in paragraph (a)(1) of this Section except as shall be otherwise approved by the Port Authority pursuant to the provisions of this paragraph (a)(3).

(4) The Lessee represents and agrees that AIG Parent shall maintain its ownership of a majority of the voting securities of AIGGIG and that AIG Parent shall control AIGGIG. The Lessee further represents and agrees that without the prior written approval of the Port Authority: (A) AIGGIG shall maintain one hundred percent (100%) of the outstanding capital stock of AIGPA and no person other than AIGGIG shall control AIGPA, (B) AIGGIG shall maintain one hundred percent (100%) of the voting control, either through AIGPA or through another wholly owned Affiliate of

AIGGIG, of PAI, and (C) PAI shall maintain one hundred percent (100%) of the outstanding securities of POPNA.

(5)(i) In the event that AIG Parent enters into a binding agreement to transfer, transfers or sells, or otherwise agrees to transfer or sell, directly or indirectly, (A) a majority of the voting securities of AIGGIG or (B) control of AIGGIG, Lessee agrees to give the Port Authority written notice of such proposed transfer or sale within three (3) business days of public announcement of such transfer or sale or its learning of such proposed transfer or sale; following receipt by the Port Authority of such written notice, the Port Authority shall have sixty (60) days to notify Lessee and AIGGIG as to whether or not it will consent to such transfer of ownership or control of AIGGIG and the terms of such consent; provided, however, that if the transfer or sale referenced above to the party as detailed in the notice is not consummated, then the Port Authority shall have no right under this clause (a)(5) to terminate this Agreement pursuant to Section 25 hereof.

(ii) In the event that the Port Authority does not consent to such proposed transfer or sale of AIGGIG as provided above, Lessee and/or POPNA, PAI, AIGPA and AIGGIG shall have one (1) year from the consummation of such transfer or sale of AIGGIG during which time period Lessee, POPNA, PAI, AIGPA and AIGGIG shall use commercially reasonable efforts to consummate a sale or other transaction, the result of which is that Lessee will then be owned and controlled by an entity or person which has been consented to by Port Authority as provided in this Section 48(a)(5). During such time period, Lessee agrees on behalf of POPNA, PAI, AIGPA and AIGGIG to (A) provide the Port Authority with transaction updates from time to time, but no less frequently than monthly, (B) "ringfence" the management of PNCT such that none of PAI, POPNA, AIGPA or AIGGIG shall have any management or decision making authority over Lessee with respect to the management of the business or operations of Lessee during the period it takes to effect a transaction, (C) use commercially reasonable efforts to conduct the sale or transfer of Lessee in such a way as to minimize any adverse impact on the business and operations of the Lessee (the Port Authority and Lessee acknowledge and agree that this sub clause (C) is limited to the conduct of the relevant parties, and that the required sale or transfer and the determination of the actual entity to be sold or transferred to comply with this Section 48(a)(5) alone shall not constitute a breach of Lessee's obligations under this sub clause (C)), and (D) upon the execution of binding documents to effect such transaction, seek the required consent of the Port Authority to such transaction. For the limited purpose of this Section 48(a)(5), the standard for any required consent of the Port Authority shall be in accordance with the criteria established under that portion of the Official Minutes of the Port Authority adopted February 22, 2007, entitled "*Port Facilities – Consent to Transfers of Leases and Changes of Ownership Interests*" (the "Consent Criteria"); provided however, that the parties hereto agree that: (I) any commitment to maintain the existing management structure at the Lessee, including a management continuity plan instituted at the Lessee, POPNA, PAI, AIGPA, AIGGIG, as applicable, will be taken into account by the Port Authority when applying the Consent Criteria and its determination of Lessee's satisfaction of such Consent Criteria; (II) a demonstrated commitment to maintain the existing business plan (including budgeted capital expenditure amounts

previously included in the Lessee's business plan provided to the Port Authority and as publicly announced by Lessee and its affiliates on February 16, 2007) will be taken into account by the Port Authority when applying the Consent Criteria and its determination of Lessee's satisfaction of such Consent Criteria; and (III) the consideration contemplated in such Consent Criteria to be paid by Lessee to the Port Authority in connection with the Port Authority's grant of any required consent under this Section 48 (a)(5) shall be up to \$10,000,000, which amount shall be used by the Port Authority to fund or offset, as the case may be, past, existing or future capital investment projects undertaken by the Port Authority that were intended, or will be intended, as the case may be, to have a direct or indirect benefit to the port terminal leased by Lessee from the Port Authority pursuant to this Agreement.

(iii) In the event that Lessee, POPNA, PAI, AIGPA and AIGGIG, as applicable, have used commercially reasonable efforts to consummate a transaction as required by Section 48(a)(5) above, in the event that such transaction would otherwise have been consummated but for the granting by the Port Authority of its required consent, Lessee and the Port Authority shall negotiate in good faith an extension to the time period granted above to complete such a sale or other transaction to an alternative transferee, such extension period not to exceed two (2) months, and the Port Authority shall retain its right to consent hereunder, subject to the Consent Criteria.

(6) The Lessee acknowledges that it is contemplated that POPNA may become a publicly owned entity (as defined in paragraph (f) of this Section), or that a parent corporation of POPNA owning one hundred percent (100%) of the voting securities of and controlling POPNA (which parent corporation(s) are hereinafter individually and collectively called the "Parent Company" and include PAI, AIGPA or AIGGIG) may become a publicly owned entity. Notwithstanding any other provision of this Section 48, in the event that POPNA or the Parent Company shall become a publicly owned entity and, as a result of such transaction, the required ownership of POPNA set forth above in this Section 48 shall cease to be in effect, such failure to so maintain said ownership interests shall not be an event of default under this Section 48 granting the Port Authority the right to terminate this Agreement under Section 25 hereof; provided that POPNA or the Parent Company, as a publicly owned entity, shall be listed on a major stock exchange (as hereinafter defined); and provided further that, no individual, corporation, partnership or other entity (other than PAI, AIGPA, AIGGIG or a publicly owned entity listed on a major stock exchange in the event and so long as no individual, corporation, partnership or other entity shall have control of any class of outstanding voting securities of such publicly owned entity) shall control any class of the outstanding voting securities of POPNA or of the Parent Company unless the Port Authority shall have given its prior written consent thereto, and if any such event shall occur and be continuing then the Port Authority shall have the right to terminate this Agreement and the letting hereunder pursuant to the provisions of Section 25 hereof. For the purposes of this Section 48, a "major stock exchange" shall be the London Stock Exchange, the Amsterdam Stock Exchange, the American Stock Exchange, the New York Stock Exchange, the NASDAQ Stock Market, the Singapore Stock Exchange or the Tokyo Stock Exchange.

(b) The Lessee acknowledges that the Lessee's assurance of faithful performance of these provisions is a special inducement for the Port Authority to enter into this Agreement. Noncompliance on the part of the Lessee with the provisions contained in this Section 48 (taking into account any time periods provided in Section 48(a)(5) hereof) shall constitute an event of default under Section 25 of this Agreement, and the Port Authority shall have the right to terminate this Agreement and the letting hereunder pursuant to the provisions of said Section 25 hercof.

(c) The foregoing right of termination shall be in addition to all other rights of termination the Port Authority has under this Agreement and the failure of the Port Authority to exercise its right of termination under this Section at any time in which it may have such right shall not affect, waive or limit its right to exercise said right of termination at any subsequent time.

(d) The term "control" as used herein shall mean the direct or indirect power through contract, arrangement, understanding, relationship, ownership of other business entities or otherwise to dispose of or to direct the disposal of, or to vote or to direct the voting of, any voting security of an entity.

(e) The term "security" shall include any membership interest, stock, any bond which carries voting rights, or rights or options to subscribe to, purchase, convert or transfer into or otherwise acquire equity securities, or any other obligation of a limited liability company or a corporation the holder of which has any voting rights including but not limited to the right to vote for the election of members of the governing body or board of directors of said limited liability company or corporation and shall include any security convertible into a voting security and any right, option or warrant to purchase a voting security.

(f) A "publicly owned entity" shall be and mean one that has any class of securities subject to the registration and reporting requirements of the Securities Exchange Act of 1934, or any successor or substitute therefore, and any entity that has met any equivalent legal registration or listing requirement of Great Britain, the Netherlands, Singapore or Japan, as the circumstances require.

(g) The term "Affiliate" shall mean any person that is directly or indirectly controls, is controlled by or is under common control with such person.

(h) The Lessee shall promptly advise the Port Authority of any change in the representations made in paragraph (a)(1), (a)(2), (a)(3) or (a)(4) of this Section 48."

4. Section 40 of the Lease and Schedule "C" of the Lease are hereby deleted and terminated in their entirety and shall have no further force and effect from and after the date of this Agreement.

5. The Lessee agrees with the Port Authority that during the term of the Lease as herein amended:

(a) Compliance Certificates. The Lessee shall, subject to the confidentiality restrictions in clause (c) below, provide to the Port Authority, its designated agents and advisors at the same time, and in any event as soon as practicable after providing the same to the lenders under the Credit Agreement (as defined below), a copy of the certificates required to be provided by any of the independent public accountants, the chief financial officer of Ports America, Inc. ("PAI") or the chief executive officer of PAI under the credit agreement (the "Credit Agreement") dated as of March \_\_, 2007 among PAI and the lenders named therein relating to the financing of the purchase by PAI of P&O North America, Inc. ("POPNA") with respect to (A) in the case of the independent public accountants, compliance with the financial covenants thereunder and (B) in the case of the chief financial officer or chief executive officer of PAI, the absence of any default or event of default thereunder; provided, that any such certificate(s) from the independent public accountants shall only be provided to the Port Authority hereunder to the extent the same is required to be delivered to the lenders pursuant to the Credit Agreement.

(b) Financial Reports. In the event that (i) Lessee fails to provide any of the compliance certificates to be delivered to the Port Authority pursuant to clause (a) above within five (5) business days of a request from the Port Authority to Lessee to provide such certificate(s) that have been delivered to the lenders as contemplated in clause (a) above, or (ii) any of the compliance certificates provided pursuant to clause (a) above indicates noncompliance with the financial covenants or a default or event of default under the Credit Agreement, then for the period covered by such certificate or so long as such noncompliance or default or event of default shall be continuing, as applicable, the Lessee shall make available to the Port Authority, during normal business hours upon the Port Authority's reasonable prior notice to Lessee, at the office of the Lessee or one of its agents or advisors solely for review by the Port Authority and its agents at such location and without taking any copies, each of the following:

(i) Quarterly Reports. As soon as available, and in any event within 60 days after the end of each of the first three quarters of each fiscal year, the unaudited balance sheet of Lessee as of the close of such quarter and related statements of income and cash flow for such quarter and that portion of the fiscal year ending as of the close of such quarter, setting forth in comparative form the figures for the corresponding period in the prior fiscal year certified by the chief executive officer of the Lessee as fairly presenting in all material respects the financial position, results of operations and cash flow of Lessee as at the dates indicated and for the periods indicated in accordance with GAAP (subject to the absence of footnote disclosure and normal year-end audit adjustments).

(ii) Annual Reports. As soon as available, and in any event within 120 days after the end of each fiscal year, the balance sheet of Lessee as of the end of such year and related statements of income, stockholders' equity and cash flow for such fiscal year, each prepared in accordance with GAAP, together with a certification by independent certified public accountants for the Lessee that such financial statements fairly present in all material respects the financial position, results of operations and cash flow of Lessee as at the dates indicated and for the periods indicated therein in accordance with GAAP without qualification as to the scope of the audit or as to going concern and without any other similar qualification.

(c) Labor Matters. The Lessee shall give the Port Authority notice (which notice may be made by telephone if promptly confirmed in writing), promptly after, and in any event within ten (10) days after the chief executive officer of the Lessee knows or has reason to know of, the commencement of any Labor Activity (as defined below) at the premises which has materially interfered, or could reasonably be expected to materially interfere, with the operation of the premises. As used in this clause (c), "Labor Activity" shall mean and include strikes, boycotts, picketing, work-stoppages, slowdowns or labor disputes.

(d) Maintenance of PNCT Books and Records. The Lessee shall: (i) maintain books, records and accounts with respect to the business and operations of Lessee on a separate stand-alone basis from the overall operations of PAI, POPNA and any other direct or indirect subsidiaries thereof, in accordance with good business practice and applicable law; and (ii) make available to the Port Authority, during normal business hours upon the Port Authority's reasonable prior notice to Lessee, at the office of the Lessee or one of its agents or advisors solely for review by the Port Authority and its agents at such location and without taking any copies, that portion of such books, records and accounts relating to security matters at the premises or as may reasonably be required for the Port Authority to verify calculations relating to container throughput rentals and reimbursement requests made from time to time.

(e) Confidentiality. The Port Authority agrees that all information delivered pursuant to this paragraph, including, without limitation, the certificates delivered pursuant to clause (a) above, and (ii) all notes, reports and analyses prepared by the Port Authority, its representatives or its advisors in connection with their review of materials provided or made available pursuant to this paragraph, including, without limitation, the books and records and other materials provided or made available pursuant to clauses (a), (b) or (d) above, shall, to the fullest extent permitted by applicable law, be treated confidentially and protected from disclosure by the Port Authority, including, without limitation, pursuant to any available exceptions or exemptions under the Port Authority's "Freedom of Information Act – Port Authority Policy and Procedure". If the Port Authority receives any request to disclose any of the information provided hereunder, the Port Authority agrees to provide the Lessee with prior written notice of such requirement so that the Lessee may seek a protective order or other appropriate remedy, and/or waive compliance with the terms of this provision. If such protective order or other remedy is not obtained, or if the Lessee waives compliance with the provisions hereof, the Port Authority agrees to disclose only that portion of the information that it is advised by counsel is legally required and it shall exercise its commercially reasonable efforts to obtain assurance that confidential treatment will be accorded to such information.

6. Effective as of January 1, 2007, (1) paragraphs (b), (c) and (d) of Section 41 of the Lease entitled "*Terminal Guarantee*", as such provision was amended by Supplement No. 5 to the Lease, shall be deemed deleted and Addendum A attached to this Agreement and incorporated by reference herein shall be deemed inserted in lieu thereof (which Addendum A attached to this Agreement is a photocopy of Addendum A attached to said Supplement No. 5 with written changes noted thereon); (2) paragraphs (f) and (g) of said Section 41, as such provision was amended by Supplement No. 5 to the Lease, shall be deemed deleted and Addendum B attached to this Agreement and incorporated by reference herein shall be deemed inserted in lieu thereof (which Addendum B attached to this Agreement is a photocopy of Addendum B attached to said Supplement No. 5 with written changes noted thereon); and



(3) Schedule D and Schedule E attached to the Lease, as such schedules were amended by Supplement No. 5 to the Lease, shall be deemed deleted and Schedule D and Schedule E attached to this Agreement and incorporated by reference herein shall be deemed substituted therefor. From and after January 1, 2007, the Lessee shall pay the Guaranteed Rental, as defined in the Lease as amended hereby, in accordance with the provisions of said Section 41 as so amended.

7. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

8. Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Lessee with any liability, or held liable to the Lessee under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach, or attempted or alleged breach thereof.

9. This Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of both the Port Authority and the Lessee. The Lessee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in the Lease or in this Agreement.

*Signature page follows*

IN WITNESS WHEREOF, the Port Authority and the Lessee have executed these presents as of the date first above written.

ATTEST:

*[Handwritten signature]*

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: *[Handwritten signature]*  
Name: Richard M. Larrabee  
Title: Director, Port Commerce

WITNESS:

\_\_\_\_\_

PORT NEWARK CONTAINER TERMINAL LLC

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

<b>APPROVED:</b>	
<b>FORM</b>	<b>TERMS</b>
<i>[Handwritten initials]</i>	<i>[Handwritten initials]</i>

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IN WITNESS WHEREOF, the Port Authority and the Lessee have executed these presents as of the date first above written.

ATTEST:

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

\_\_\_\_\_

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

Name:

Title:

WITNESS:

PORT NEWARK CONTAINER TERMINAL  
LLC

\_\_\_\_\_

By: Donald P. Hanna

Name: DONALD P. HANNA

Title: PRESIDENT

## ADDENDUM A

(b) The Lessee shall be subject to the payment of a guaranteed rental (hereinafter called the "Guaranteed Rental") for the Terminal Throughput Year commencing on January 1, 2004, and ending on December 31, 2004, and in each subsequent Terminal Throughput Year to occur thereafter during the term of the letting under this Agreement as follows: in the event that the number of Qualified Containers loaded onto or discharged from vessels berthing at the premises during any such Terminal Throughput Year shall not exceed the Rent Guarantee Number for that Terminal Throughput Year, the Lessee shall pay to the Port Authority a Guaranteed Rental equal to the product obtained by multiplying

(1) the excess of the Rent Guarantee Number for that Terminal Throughput Year over the greater of (i) the actual number of Qualified Containers loaded onto or discharged from vessels berthing at the premises during that Terminal Throughput Year, or (ii) the Exemption Number (as defined in subparagraph (5) of paragraph (a) of Section 5 hereof); by

(2) the Throughput Rental Rate in effect on the last day of that Terminal Throughput Year pursuant to the provisions of Sections 5 and 6 hereof.

Any Guaranteed Rental owed under this Section shall be paid by the Lessee to the Port Authority within ten (10) days after notification by the Port Authority to the Lessee stating the amount thereof.

(c) Notwithstanding any provision to the contrary contained in this Section, the Rent Guarantee Number of three hundred fifty thousand (350,000), as set forth in Schedule D hereto for the Terminal Throughput Year ending on December 31, 2004, shall not be increased and shall remain at three hundred fifty thousand (350,000) for purposes of the calculation of the Guaranteed Rental in the event that the Forty-five Foot Deepening shall not have been completed by December 31, 2004. The calculation of the Guaranteed Rental shall be made based on the Rent Guarantee Number of three hundred fifty thousand (350,000) until such time as the Forty-five Foot Deepening is completed, and upon the completion thereof the calculation of the next payable Guaranteed Rental shall reflect the Rent Guarantee Number of three hundred fifty thousand (350,000) for any portion of the Terminal Throughput Year preceding the completion of the Forty-five Foot Deepening and shall reflect the Rent Guarantee Number of three hundred fifty-five thousand (355,000) for any portion of the Terminal Throughput Year following the completion thereof, unless the Forty-five Foot Deepening shall be completed on the last day of the Terminal Throughput Year, in which event the Rent Guarantee Number for the entire Terminal Throughput Year next following the Terminal Throughput Year in which the Forty-five Foot Deepening shall be completed shall be three hundred fifty-five thousand (355,000). Thereafter the Rent Guarantee Number shall increase in the succession set forth in Schedule D hereto for the succeeding Terminal Throughput Years without regard to the actual calendar year of the Terminal Throughput Year set forth in said Schedule D. In addition, and notwithstanding any provision to the contrary contained in this Section, the Rent Guarantee

DH

twenty-six

DH

426,000

Number of four hundred ~~one~~ thousand (~~401,000~~), as set forth in Schedule D hereto for the Terminal Throughput Year ending on December 31, 2009, or such lower Rent Guarantee Number as shall then be in effect pursuant to the provisions set forth above in this paragraph (which applicable Rent Guarantee Number is hereinafter called "the 2009 Rent Guarantee Number"), shall not be increased and shall remain at the 2009 Rent Guarantee Number for purposes of the calculation of the Guaranteed Rental in the event that the Fifty Foot Deepening shall not have been completed by December 31, 2009. The calculation of the Guaranteed Rental shall be made based on the 2009 Rent Guarantee Number until such time as the Fifty Foot Deepening is completed, and upon the completion thereof the calculation of the next payable Guaranteed Rental shall reflect the 2009 Rent Guarantee Number for any portion of the Terminal Throughput Year preceding the completion of the Fifty Foot Deepening and shall reflect the Rent Guarantee Number next succeeding the 2009 Rent Guarantee Number for any portion of the Terminal Throughput Year following the completion thereof, unless the Fifty Foot Deepening shall be completed on the last day of the Terminal Throughput Year, in which event the Rent Guarantee Number for the entire Terminal Throughput Year next following the Terminal Throughput Year in which the Fifty Foot Deepening shall be completed shall be the Rent Guarantee Number next succeeding the 2009 Rent Guarantee Number. Thereafter the Rent Guarantee Number shall increase in the succession set forth in Schedule D hereto for the succeeding Terminal Throughput Years without regard to the actual calendar year of the Terminal Throughput Year set forth in said Schedule D.

(d) Notwithstanding any provision to the contrary contained in this Section, the Rent Guarantee Number of three hundred fifty-five thousand (355,000), as set forth in Schedule D hereto for the Terminal Throughput Year ending on December 31, 2005, shall not be increased and shall remain at three hundred fifty-five thousand (355,000) for purposes of the calculation of the Guaranteed Rental in the event that the Dredging, as defined in Section 8 (a) (3) hereof, shall not have been completed by December 31, 2005, because of the inability of the Lessee to obtain all necessary permits and governmental authorizations to perform the Dredging. The calculation of the Guaranteed Rental shall be made based on the Rent Guarantee Number of three hundred fifty-five thousand (355,000) until such time as the Dredging is completed, and upon the completion thereof the calculation of the next payable Guaranteed Rental shall reflect the Rent Guarantee Number of three hundred fifty-five thousand (355,000) for any portion of the Terminal Throughput Year preceding the completion of the Dredging and shall reflect the Rent Guarantee Number of three hundred sixty thousand (360,000) for any portion of the Terminal Throughput Year following the completion thereof, unless the Dredging shall be completed on the last day of the Terminal Throughput Year, in which event the Rent Guarantee Number for the entire Terminal Throughput Year next following the Terminal Throughput Year in which the Dredging shall be completed shall be three hundred sixty thousand (360,000). Thereafter the Rent Guarantee Number shall increase in the succession set forth in Schedule D hereto for the succeeding Terminal Throughput Years without regard to the actual calendar year of the Terminal Throughput Year set forth in said Schedule D. In addition, and notwithstanding any provision to the contrary contained in this Section, the Rent Guarantee Number of four hundred ~~six~~ thousand (~~406,000~~), as set forth in Schedule D hereto for the Terminal Throughput

thirty-one

DH

431,000

DH

Year ending on December 31, 2010, or such lower Rent Guarantee Number as shall then be in effect pursuant to the provisions set forth above in this paragraph (which applicable Rent Guarantee Number is hereinafter called "the 2010 Rent Guarantee Number"), shall not be increased and shall remain at the 2010 Rent Guarantee Number for purposes of the calculation of the Guaranteed Rental in the event that the Fifty-two Foot Dredging, as defined in Section 8(a)(5) hereof, shall not have been completed by December 31, 2010, because of the inability of the Lessee to obtain all necessary permits and governmental authorizations to perform Fifty-two Foot Dredging. The calculation of the Guaranteed Rental shall be made based on the 2010 Rent Guarantee Number until such time as the fifty-two Foot Dredging is completed, and upon the completion thereof the calculation of the next payable Guaranteed Rental shall reflect the 2010 Rent Guarantee Number for any portion of the Terminal Throughput Year preceding the completion of the Fifty-two Foot Dredging and shall reflect the Rent Guarantee Number next succeeding the 2010 Rent Guarantee Number for any portion of the Terminal Throughput Year following the completion thereof, unless the Fifty-two Foot Dredging shall be completed on the last day of the Terminal Throughput Year, in which event the Rent Guarantee Number for the entire Terminal Throughput Year next following the Terminal Throughput Year in which the Fifty-two Foot Dredging shall be completed shall be the Rent Guarantee Number next succeeding the 2010 Rent Guarantee Number. Thereafter the Rent Guarantee Number shall increase in the succession set forth in Schedule D hereto for the succeeding Terminal Throughput Years without regard to the actual calendar year of the Terminal Throughput Year set forth in said Schedule D. The postponement of the respective increase in the Rent Guarantee Number as set forth above in this paragraph shall be conditioned upon the Lessee's having made timely, diligent and continuous efforts to obtain any permits and governmental authorizations necessary respectively for the Dredging and the Fifty-two Foot Dredging and, upon obtaining them, having proceeded to the completion of the respective dredging as expeditiously as possible.

DK  
Fifty-five

## ADDENDUM B

DK  
255,600

(f) Notwithstanding any provision to the contrary contained in this Section, the Terminal Guarantee Number of two hundred ten thousand (210,000), as set forth in Schedule E hereto for the Terminal Throughput Year ending on December 31, 2004, shall not be increased and shall remain at two hundred ten thousand (210,000) for purposes of the termination right set forth in paragraph (d) of this Section in the event that the Forty-five Foot Deepening shall not have been completed by December 31, 2004. The calculation of the Terminal Guarantee Number for each of any three consecutive Terminal Throughput Years shall be made based on the Terminal Guarantee Number of two hundred ten thousand (210,000) until such time as the Forty-five Foot Deepening is completed, and upon the completion thereof the calculation of the Terminal Guarantee Number for the Terminal Throughput Year in which such completion shall occur shall reflect the Terminal Guarantee Number of two hundred ten thousand (210,000) for any portion of the Terminal Throughput Year preceding the completion of the Forty-five Foot Deepening and shall reflect the Terminal Guarantee Number of two hundred thirteen thousand (213,000) for any portion of the Terminal Throughput Year following the completion thereof, unless the Forty-five Foot Deepening shall be completed on the last day of the Terminal Throughput Year, in which event the Terminal Guarantee Number for the entire Terminal Throughput Year next following the Terminal Throughput Year in which the Forty-five Foot Deepening shall be completed shall be two hundred thirteen thousand (213,000). Thereafter the Terminal Guarantee Number shall increase in the succession set forth in Schedule E hereto for the succeeding Terminal Throughput Years without regard to the actual calendar year of the Terminal Throughput Year set forth in said Schedule E. In addition, and notwithstanding any provision to the contrary contained in this Section, the Terminal Guarantee Number of two hundred forty thousand six hundred (~~240,600~~), as set forth in Schedule E hereto for the Terminal Throughput Year ending on December 31, 2009, or such lower Terminal Guarantee Number as shall then be in effect pursuant to the provisions set forth above in this paragraph (which applicable Terminal Guarantee Number is hereinafter called "the 2009 Terminal Guarantee Number"), shall not be increased and shall remain at the 2009 Terminal Guarantee Number for purposes of the termination right set forth in paragraph (d) of this Section in the event that the Fifty Foot Deepening shall not have been completed by December 31, 2009. The calculation of the Terminal Guarantee Number for each of any three consecutive Terminal Throughput Years shall be made based on the 2009 Terminal Guarantee Number until such time as the Fifty Foot Deepening is completed, and upon the completion thereof the calculation of the Terminal Guarantee Number for the Terminal Throughput Year in which such completion shall occur shall reflect the 2009 Terminal Guarantee Number for any portion of the Terminal Throughput Year preceding the completion of the Fifty Foot Deepening and shall reflect the Terminal Guarantee Number next succeeding the 2009 Terminal Guarantee Number for any portion of the Terminal Throughput Year following the completion thereof, unless the Fifty Foot Deepening shall be completed on the last day of the Terminal Throughput Year, in which event the Terminal Guarantee Number for the entire Terminal Throughput Year next following the Terminal Throughput Year in which the Fifty Foot Deepening shall be completed shall be the

DH

Fifty-eight

DH

258,600

Terminal Guarantee Number next succeeding the 2009 Terminal Guarantee Number. Thereafter the Terminal Guarantee Number shall increase in the succession set forth in Schedule E hereto for the succeeding Terminal Throughput Years without regard to the actual calendar year of the Terminal Throughput Year set forth in said Schedule E.

(g) Notwithstanding any provision to the contrary contained in this Section, the Terminal Guarantee Number of two hundred thirteen thousand (213,000), as set forth in Schedule E hereto for the Terminal Throughput Year ending on December 31, 2005, shall not be increased and shall remain at two hundred thirteen thousand (213,000) for purposes of the termination right set forth in paragraph (d) of this Section in the event that the Dredging, as defined in Section 8 (a) (3) hereof, shall not have been completed by December 31, 2005, because of the inability of the Lessee to obtain all necessary permits and governmental authorizations to perform the Dredging. The calculation of the Terminal Guarantee Number for each of any three consecutive Terminal Throughput Years shall be made based on the Terminal Guarantee Number of two hundred thirteen thousand (213,000) until such time as the Dredging is completed, and upon the completion thereof the calculation of the Terminal Guarantee Number for the Terminal Throughput Year in which such completion shall occur shall reflect the Terminal Guarantee Number of two hundred thirteen thousand (213,000) for any portion of the Terminal Throughput Year preceding the completion of the Dredging and shall reflect the Terminal Guarantee Number of two hundred sixteen thousand (216,000) for any portion of the Terminal Throughput Year following the completion thereof, unless the Dredging shall be completed on the last day of the Terminal Throughput Year, in which event the Terminal Guarantee Number for the entire Terminal Throughput Year next following the Terminal Throughput Year in which the Dredging shall be completed shall be two hundred sixteen thousand (216,000). Thereafter the Terminal Guarantee Number shall increase in the succession set forth in Schedule E hereto for the succeeding Terminal Throughput Years without regard to the actual calendar year of the Terminal Throughput Year set forth in said Schedule E. In addition, and notwithstanding any provision to the contrary contained in this Section, the

Terminal Guarantee Number of two hundred ~~forty-three~~ thousand six hundred (243,600), as set forth in Schedule E hereto for the Terminal Throughput Year ending on December 31, 2010, or such lower Terminal Guarantee Number as shall then be in effect pursuant to the provisions set forth above in this paragraph (which applicable Terminal Guarantee Number is hereinafter called "the 2010 Terminal Guarantee Number"), shall not be increased and shall remain at the 2010 Terminal Guarantee Number for purposes of the termination right set forth in paragraph (d) of this Section in the event that the Fifty-two Foot Dredging, as defined in Section 8 (a) (5) hereof, shall not have been completed by December 31, 2010, because of the inability of the Lessee to obtain all necessary permits and governmental authorizations to perform the Fifty-two Foot Dredging. The calculation of the Terminal Guarantee Number for each of any three consecutive Terminal Throughput Years shall be made based on the 2010 Terminal Guarantee Number until such time as the Fifty-two Foot Dredging is completed, and upon the completion thereof the calculation of the Terminal Guarantee Number for the Terminal Throughput Year in which such completion shall occur shall reflect the 2010 Terminal Guarantee Number for any portion of the



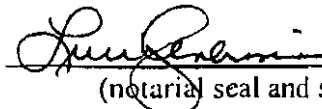
Terminal Throughput Year preceding the completion of the Fifty-two Foot Dredging and shall reflect the Terminal Guarantee Number next succeeding the 2010 Terminal Guarantee Number for any portion of the Terminal Throughput Year following the completion thereof, unless the Fifty-two Foot Dredging shall be completed on the last day of the Terminal Throughput Year, in which event the Terminal Guarantee Number for the entire Terminal Throughput Year next following the Terminal Throughput Year in which the Fifty-two Foot Dredging shall be completed shall be the Terminal Guarantee Number next succeeding the 2010 Terminal Guarantee Number. Thereafter the Terminal Guarantee Number shall increase in the succession set forth in Schedule E hereto for the succeeding Terminal Throughput Years without regard to the actual calendar year of the Terminal Throughput Year set forth in said Schedule E. The postponement of the respective increase in the Terminal Guarantee Number as set forth above in this paragraph shall be conditioned upon the Lessee's having made timely, diligent and continuous efforts to obtain any permits and governmental authorizations necessary respectively for the Dredging and the Fifty-two Foot Dredging and, upon obtaining them, having proceeded to the completion of the respective dredging as expeditiously as possible.

<b>PNCT LLC TERMINAL GUARANTEE</b>		
<b>Schedules D and E</b>		
<b>(Effective January 1, 2007)</b>		
<b><u>Annual Containers Handled</u></b>		
<b><u>Year Commencing</u></b>	<b><u># of Containers (Schedule D)</u></b>	<b><u>60% (Schedule E)</u></b>
1/1/2004	350,000	210,000
1/1/2005	355,000	213,000
1/1/2006	360,000	216,000
1/1/2007	390,000	234,000
1/1/2008	421,000	252,600
1/1/2009	426,000	255,600
1/1/2010	431,000	258,600
1/1/2011	436,000	261,600
1/1/2012	441,000	264,600
1/1/2013	446,000	267,600
1/1/2014	451,000	270,600
1/1/2015	456,000	273,600
1/1/2016	461,000	276,600
1/1/2017	466,000	279,600
1/1/2018	471,000	282,600
1/1/2019	476,000	285,600
1/1/2020	481,000	288,600
1/1/2021	486,000	291,600
1/1/2022	491,000	294,600
1/1/2023	496,000	297,600
1/1/2024	501,000	300,600
1/1/2025	501,000	300,600
1/1/2026	501,000	300,600
1/1/2027	501,000	300,600
1/1/2028	501,000	300,600
1/1/2029	501,000	300,600
1/1/2030	501,000	300,600

Form - All-Purpose Ack. N.Y. (rev 9/1/99)

STATE OF NEW YORK )  
 ) ss.  
COUNTY OF NEW YORK )

On the 14<sup>th</sup> day of March in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared Richard M. Lannabe, Director Port Commerce, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
(notarial seal and stamp)

LUCY AMBROSINO  
NOTARY PUBLIC, STATE OF NEW YORK  
No. 01AM6101070  
QUALIFIED IN NEW YORK COUNTY  
MY COMMISSION EXPIRES NOV 3, 2007

STATE OF )  
 ) ss.  
COUNTY OF )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
(notarial seal and stamp)

Form - All-Purpose Ack. N.Y. (rev 9/1/99)

STATE OF NEW YORK )  
 ) ss.  
COUNTY OF NEW YORK )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
(notarial seal and stamp)

STATE OF *New Jersey* )  
 ) ss.  
COUNTY OF *Essex* )

On the *14<sup>th</sup>* day of *March* in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared *Ronald P. Hamm*, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

*Andrea Goc*  
\_\_\_\_\_  
(notarial seal and stamp)

ANDREA GOC  
NOTARY PUBLIC OF NEW JERSEY  
Commission Expires 2/27/2012