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FIRST AMENDMENT TO LEASE AND OPERATING AGREEMENT BETWEEN PHILADELPHIA REGIONAL PORT AUTHORITY AND DELAWARE RIVER STEVEDORES, INC.

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This FIRST AMENDMENT TO LEASE AND OPERATING AGREEMENT ("Amendment") is made as of this 21st day of November 2007, by and between the PHILADELPHIA REGIONAL PORT AUTHORITY ("PRPA")... and DELAWARE RIVER STEVEDORES, INC. ("DRS")...

I. Background:

PRPA and DRS entered into an Amended and Restated Lease and Operating Agreement for the Tioga Marine Terminal, dated August 15, 2002 ("Lease").

PRPA and DRS desire to modify the insurance language of the lease as set forth in this First Amendment.

NOW, THEREFORE, intending to be legally bound hereby and in exchange for good, valuable and sufficient consideration received, PRPA and DRS covenant and agree as follows:

II. Effective Date:

This Amendment shall become effective on the last event to occur:

- i. The date on which an executed copy hereof is filed with the FMC in accordance with the Shipping Act of 1984;
ii. The date on which the office of Attorney General of the Commonwealth of Pennsylvania approves this Agreement;
iii. October 1, 2007.

Landlord shall cause this Amendment to be filed with the FMC promptly following the execution and delivery hereof.

III. Article VIII - Insurance; Indemnification

Article VIII of the Lease is replaced in its entirety with the following:



## ARTICLE VIII - INSURANCE; INDEMNIFICATION

### 8.1 Property Insurance

8.1.1 PRPA maintains property insurance through the Commonwealth Insurance Program. Tenant agrees to pay to Landlord the cost of forty six thousand eight hundred thirty eight dollars and fifty cents (\$46,838.50), subject to annual CPI, for the insurance premium paid to cover the premises by PRPA and/or the Commonwealth of Pennsylvania as additional rent. Payment of the Insurance Cost will become due once PRPA provides DRS notice of the annual premium cost paid by or to be paid for the property insurance under the Commonwealth Insurance Program ("Premium Notice"). Payment of the Insurance Cost by Tenant to Landlord will be made in twelve (12) equal payments with payment being due monthly by the first of the month. For purposes of determination of amounts owed, the Insurance Cost shall be calculated by taking the insurance premium, including but not limited to brokerage and financing charges, paid by PRPA or the Commonwealth for coverage on all of PRPA facilities divided by the acreage of the Premises.

8.1.2 PRPA may from time to time cause an engineer, appraiser or other representative of PRPA to inspect the Premises to determine the replacement value of the Premises and, upon written notice of any valuation so determined in excess of the amount specified in Section 8.1.1, the amount of insurance therein specified shall, at PRPA's option, be increased upon notice to DRS to an amount not to exceed the valuation so determined, and DRS shall in that event promptly cause the insurance required by Section 8.1.1 to be increased appropriately in such amount at DRS' expense.

8.1.3 DRS shall keep the contents of the Premises, including without limitation the property of others and improvements and betterments, and "contractor's equipment", continuously insured during the Term against "all risks" of direct physical loss, on a legal liability basis with respect to property of others, and on an actual cash value basis with respect to all other contents, improvements and betterments, and "contractor's equipment". DRS shall cause the policy evidencing such insurance to name PRPA and the Commonwealth as additional insureds and loss payees, as their interests may appear.

8.1.4 No policy of insurance maintained by DRS under this Section 8.1 shall contain a deductible feature in excess of TWENTY THOUSAND DOLLARS (\$20,000.00) unless otherwise approved by PRPA.

8.2 Liability Insurance. During the Term, DRS shall continuously keep in effect comprehensive general liability insurance of at least TEN MILLION DOLLARS (\$10,000,000.00), single limit, as to personal injury, death or property damage. DRS shall cause the policy evidencing such insurance to name PRPA and the Commonwealth as additional insureds, and shall cause such policy to incorporate a cross liability endorsement provision as follows (or a substantially identical provision satisfactory to PRPA): "Cross Liability - it is understood and agreed that the insurance afforded by this policy for more than one named insured shall not operate to increase the limits of the Company's liability, but otherwise shall not operate to limit or void the coverage of any one named insured with respect to claims against the said named insured by any other

named insured or the employees of any such other named insured". DRS shall also cause any and all contractors, subcontractors, stevedores or other agents it uses to name PRPA and the Commonwealth as additional insureds on said party's liability insurance policies.

8.3 Workers' Compensation Insurance. During the Term, DRS itself shall maintain, and shall also require that any and all contractors, subcontractors, stevedores or other agents with which it contracts for services at the Premises maintain, in full force and effect at all times during the Term of this Agreement, statutory worker's compensation insurance and employers' liability insurance, United States Longshoremen's and Harbor Workers' Compensation Act insurance, Jones Act insurance, Occupational Disease Act insurance, and any Disability Benefits Act insurance required by federal, state or local law.

8.4 Automobile Insurance. During the Term, DRS shall continuously keep in effect comprehensive automobile liability insurance in the amount of FIVE MILLION DOLLARS (\$5,000,000.00) per each accident for bodily injury and property damage combined, naming PRPA and the Commonwealth as additional insureds.

8.5 Insurance; General.

8.5.1 PRPA's Purchase. If DRS fails to maintain any insurance required in this Agreement to be maintained by it, PRPA may, at its option, procure same wherever available at a reasonable price and at DRS' expense, and DRS shall pay to PRPA the cost thereof, and such other costs incurred by PRPA in connection therewith, including without limitation PRPA's reasonable attorney's fees, on demand as Rent.

8.5.2 Requirements. Every policy of insurance required by this Agreement to be maintained by DRS shall contain a provision prohibiting cancellation thereof or changes therein without at least thirty (30) calendar days prior written notice to PRPA and the Commonwealth at the addresses designated from time to time in writing by PRPA and the Commonwealth, respectively. On or before the Commencement Date, and thereafter at least ten (10) calendar days before expiration of any policy, DRS shall deliver to PRPA two copies of the certificates of insurance and within a reasonable time period thereafter two copies of the policies evidencing each of the coverages that it is required to carry under this Article VI whether carried by DRS, its contractors, subcontractors, stevedores, or other agents.

8.5.3 Form of Policy. All policies required hereunder and any renewals thereof (1) shall be in form satisfactory to PRPA, including as to the amount of the deductible, (2) shall be issued by companies satisfactory to PRPA authorized to engage in the insurance business in the Commonwealth or otherwise satisfactory to PRPA, and (3) shall be maintained in full force and effect during the Term of this Agreement.

8.5.4 Additional Insurance. DRS shall also provide such additional types of insurance in such amounts as PRPA shall from time to time reasonably require. In the

event that any such additional insurance is required, DRS shall deliver two copies of each policy to PRPA.

8.5.5 Use of Premises. DRS agrees not to use the Premises in any manner that will result in the cancellation or increase in cost of any insurance policy that DRS is required to carry hereunder.

8.5.6 Separate Insurance. DRS shall not take separate insurance that is concurrent in form with, or which contributes to an event or events of loss which are covered by, either the insurance required to be furnished by DRS under this Article VIII, or the insurance DRS may reasonably be required to furnish under this Article VIII, unless PRPA and Commonwealth are named in such policies as insureds, with loss payable as provided in this Agreement. DRS shall immediately notify PRPA of the taking out of any such separate insurance and shall cause the policies therefor to be delivered to PRPA as required herein.

8.5.7 Claims Made Policies. DRS shall not obtain any insurance through policies written on a "claims made" basis without PRPA's prior express written consent, which consent shall not unreasonably be withheld if the proposed policy and DRS satisfy all of the following requirements: (1) the policy retroactive date shall coincide with or precede DRS' occupancy or use of any portion of the Premises; and (2) DRS shall maintain such policy for at least four years following the termination or expiration of the Term (whichever is later); and (3) if such insurance is prematurely terminated for any reason, DRS shall, in addition to securing immediate replacement coverage for such insurance, purchase an extended reporting provision of at least four years duration to report claims arising from this Agreement or DRS' occupancy; and (4) the policy shall allow for the report of circumstances or incidents which might give rise to future claims.

8.5.8 Blanket Policies. Any insurance required of DRS under this Article VIII may be effected by a blanket or multi-peril or all-risk policy or policies issued to DRS or to any person with which DRS is affiliated, and covering the Premises as well as other properties owned by or leased to DRS or affiliated person, provided that (1) such policy or policies shall be satisfactory to and approved by PRPA and shall comply in all respects with the provisions of this Agreement and (2) the amount of insurance allocated thereunder to DRS' property located in the Premises shall be specified either in such policy or policies or in an endorsement thereto and shall equal the amounts required under this Agreement.

8.6 Accident Reports. DRS shall provide a report to PRPA in writing, as soon as practicable but in any event within two (2) calendar days after DRS, its officers, employees or agents have knowledge of any accident or occurrence involving death of or injury to any person or persons or loss or damage in excess of TEN THOUSAND DOLLARS (\$10,000.00) to the Premises or property of any person other than DRS occurring upon or about the Premises. All such reports shall include, to the extent available and appropriate: (1) the names and addresses of the persons involved; (2) a general statement as to the nature and extent of the injury or damage; (3) the date and

hour of the occurrence; (4) the names and addresses of witnesses; and (5) such other information, reasonably requested by PRPA, as may be known to DRS, its officers, employees or agents.

8.7 Liability for Damages Caused by Third Parties. DRS shall maintain the necessary security on the Premises to assure that the Premises is not used by anyone not having the permission of DRS or PRPA. DRS is and shall be solely liable for all damage to the Premises which is caused by third parties not authorized to be upon the Premises, or by DRS' employees, agents, contractors, invitees or licensees if said damage is due to the negligence or misconduct of DRS.

8.8 Release and Indemnification.

8.8.1 DRS agrees that PRPA, its successors and assigns, and the Commonwealth, and their respective agents, employees, officers, directors, shareholders and partners shall not be liable to DRS and DRS hereby releases said parties from any liability, for any personal injury, loss of income or damage to or loss of persons or property, or loss of use of any property, in or about the Premises from any cause whatsoever unless such damage, loss or injury results from PRPA's failure to perform its obligations or the negligence or willful misconduct of PRPA, its officers, employees or agents. Furthermore, PRPA and the Commonwealth, and their respective agents, employees, officers, directors and partners shall not be liable to DRS for any such damage or loss, whether or not such damage or loss so results from their negligence, to the extent DRS is compensated therefore by DRS' insurance.

8.8.2 DRS shall defend, indemnify, save and hold harmless PRPA, the Commonwealth, and their respective agents, employees, officers, directors, shareholders, partners from and against all liabilities, obligations, damages, penalties, claims, causes of action, costs, charges and expenses, including reasonable attorneys' fees, court costs, administrative costs and costs of appeals which may be imposed upon or incurred by or asserted against any of them by reason of the following which shall occur during the Term of this Agreement, during any holdover period after expiration or termination of the Term, or during any period of time prior to the Commencement Date when DRS may have been given access to or possession of all or any portion of the Premises:

(1) any work or act done in, on or about the Premises or any part thereof at the direction of or caused by DRS, its agents, contractors, subcontractors, servants, employees, subtenants, licensees or invitees;

(2) any negligence, tort or other wrongful act or omission on the part of DRS or any of its agents, contractors, subcontractors, servants, employees, subtenants, licensees or invitees;

(3) any accident, injury or damage to any persons or property occurring in, on or about the Premises or any part thereof, unless caused by PRPA's



failure to perform its obligations or the negligence or willful misconduct of PRPA, its employees or agents; and

(4) any failure on the part of DRS to perform or comply with any of the covenants, agreements, terms, provisions, conditions or limitations contained in this Agreement.

8.8.3 The obligation of DRS to indemnify contained in Section 8.8.2 shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for DRS, its agents or contractors under workers' or workman's compensation acts, disability benefit acts or other employee benefits acts, or under any other insurance coverage DRS may obtain.

8.8.4 The release and indemnification given in this Section 5.8 shall survive the expiration or termination of this Agreement.

**IV. Lease Remains in Effect:**

As amended hereby, the Original Lease remains in full force and effect. In the event of any conflict or inconsistency between the terms of this Amendment and those of the Lease, the terms of this Amendment shall govern and control.

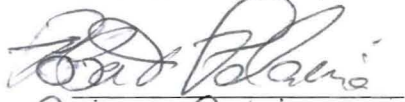
**V. Execution in Counterparts:**

This First Amendment to Lease and Operating Agreement may be executed in identical counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon and all of which shall constitute one and the same instrument.


**IN WITNESS WHEREOF**, the parties hereto have caused this Amendment be duly executed as of the day and year first above written.

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Delaware River Stevedores, Inc.

  
Robert Palaima  
President


THE PHILADELPHIA REGIONAL  
PORT AUTHORITY

By:   
Name: James T. McDermott, Jr.  
Title: Executive Director


Approved as to Legality and Form:

Approved as to Budgetary Appropriateness & Fiscal  
Responsibility


THE PHILADELPHIA  
REGIONAL  
PORT AUTHORITY

By:   
Name: Gregory V. Iannarelli  
Title: Chief Counsel

THE PHILADELPHIA REGIONAL  
PORT AUTHORITY

By:   
Name: Edward Henderson  
Title: Director of Finance & Capital Funding

OFFICE OF THE ATTORNEY  
GENERAL

By:   
Name: Robert a. Mulle, Esquire  
Title: Chief Deputy Attorney  
General

OFFICE OF THE BUDGET

By:   
Name: Joseph Lawruk  
Title: Comptroller