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• October 1, 2016 - December 31, 2019	
• Commission Action August 11, 2015 to remove Pier 66	
<b>Fourth Amendment to the Cruise Facility Lease</b>	<b>59</b>
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<b>Fifth Amendment to the Cruise Facility Lease</b>	<b>105</b>
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**AMENDED AND RESTATED  
CRUISE FACILITY LEASE AGREEMENT**

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## **AMENDED AND RESTATED CRUISE FACILITY LEASE AGREEMENT**

THIS AMENDED AND RESTATED CRUISE FACILITY LEASE AGREEMENT is made as of this 12<sup>th</sup> day of August 2015 by and between the PORT OF SEATTLE, a Washington municipal corporation, and CRUISE TERMINALS OF AMERICA, LLC, a Washington limited liability corporation.

WHEREAS, the Port of Seattle and Cruise Terminals of America, LLC are parties to that certain Cruise Terminal Lease Agreement dated December 21, 2005, which lease agreement has been amended the First Amendment to Cruise Facility Lease Agreement dated May 17, 2006 and the Second Amendment to Cruise Facility Lease Agreement dated September 24, 2012; and

WHEREAS, the Port has requested, and CTA has agreed, to terminate CTA's rights in the Pier 66 Cruise Facility so that the Port may enter into a lease agreement with Norwegian Cruise Line Holdings Ltd. that provides for the substantial redevelopment of the Pier 66 Cruise Facility; and

WHEREAS, Port and CTA now wish to amend the Agreement to provide for the terms of the parties' agreement regarding the termination of CTA's rights in the Pier 66 Cruise Facility, which termination shall be effective the day before the Restatement Date (as defined below); and

WHEREAS, Port and CTA further wish to restate the Agreement to make clear those obligations that shall continue to apply at the Terminal 91 Cruise Facility after the effective date of this Amended and Restated Agreement, but nothing in this Amended and Restated Agreement is intended to eliminate any rights and/or discharge any obligations that may have applied to either party prior to the effective date of this Amendment and Restated Agreement at the Pier 66 Cruise Facility, the Terminal 30 Cruise Facility or the Terminal 91 Cruise Facility;

NOW THEREFORE, for and in consideration of the mutual promises, covenants and conditions hereinafter set forth, the parties agree as follows:

### **ARTICLE 1: DEFINITIONS**

The following terms shall have the meanings specified in this Article, unless otherwise specifically provided. Other terms may be defined in other parts of this Amended and Restated Agreement.

1.1 Affiliate. "Affiliate" shall mean and refer to any person that, directly or indirectly, (i) is owned by, (ii) owns, (iii) shares common ownership with, (iv) is controlled by, (v) controls, or (vi) is subject to common control with any Qualifying Person. Notwithstanding the foregoing, Affiliate shall not include any entity the shares or other equity interests of which are traded over any public exchange and for which the total number of shares or other equity interests held by all

Qualifying Persons do not exceed five percent (5%) of the total number of shares or other equity interests outstanding.

1.2 Agreement. "Agreement" shall mean and refer to Cruise Terminal Lease Agreement dated December 21, 2005, as amended by the First Amendment to Cruise Facility Lease Agreement dated May 17, 2006 and the Second Amendment to Cruise Facility Lease Agreement dated September 24, 2012.

1.3 Allowable Expenses. "Allowable Expenses" shall mean and refer to the aggregate of the following expenses (computed on an accrual basis in accordance with generally accepted accounting principles) reasonably incurred by Tenant and pertaining to the Premises:

1.3.1 Cost of operations, maintenance, and repair of all operating equipment and replacement of minor items initially supplied by the Port;

1.3.2 Cost of operating supplies;

1.3.3 Tenant's reasonable expense associated with the cost of compensation, benefits and payroll taxes of all employees to the extent working at the Premises (whether full or part time) or performing duties pertaining to the Premises at Tenant's office, excluding Executive Personnel;

1.3.4 Cost of all utilities;

1.3.5 Costs associated with parking at the Terminal 91 Cruise Facility;

1.3.6 Costs of repair and maintenance of the Premises;

1.3.7 Cost of all equipment leases necessary for the operation of the Terminal 91 Cruise Facility;

1.3.8 To the extent reasonably allocable to the Premises, the cost of insurance required under this Amended and Restated Agreement to be carried by Tenant and any deductibles or reasonable costs to cover any self-insured losses except if Tenant or its employees were grossly negligent;

1.3.9 Cost of all business taxes and valid third party assessments payable by Tenant with respect to the operation of the Premises, excluding federal, state or local income taxes payable by Tenant which are Tenant's sole responsibility;

1.3.10 To the extent reasonably allocable to the Premises, the cost of reasonable legal and accounting fees for services directly related to the operation of the Premises and annual auditing fees;

1.3.11 To the extent reasonably allocable to the Premises, costs of technical consultants and specialized operational experts for specialized services in connection with non-recurring work on operation, functional, design or construction problems or for specialized expertise on recurring work and operations which can most efficiently be provided by vendors rather than employees;

1.3.12 To the extent incurred in accordance with the excerpt of the Port's travel policies attached as Exhibit A, all costs and expenses for advertising, promotion, and sales activities directly related to the Facility, including travel, food and beverage, and lodging while away from Seattle on these activities; and

1.3.13 All other reasonable Operating Expenses actually incurred in the operation and management of the Premises to the extent approved by the Port (which approval shall not be unreasonably withheld or delayed) in advance of the expense being incurred.

Allowable Expenses shall not include the following:

1.3.14 Notwithstanding anything to the contrary set forth in Sections 1.3.1 through 1.3.13, any amounts paid to an Affiliate or Qualifying Person (other than bona fide cost of compensation specifically allowed by Section 1.3.3) unless expressly approved, in advance and in writing, by the Port as necessary and reasonable;

1.3.15 Cost of leasehold excise tax payable by Tenant with respect to any "Leasehold Interest," as that term is defined in Chapter 82.29A of the Revised Code of Washington and Chapter 458-29A of the Washington Administrative Code, in the Premises;

1.3.16 Costs of fines or penalties as a result of any failure to comply with any federal, state and local laws, ordinances and regulations in the operation of the facility (specifically including those levied as a result of acts or omissions of third-parties including ship operators);

1.3.17 Any expense otherwise includable within the definition of Allowable Expenses but for which expense Tenant has received reimbursement from the Port under any of the Allowances; and

1.3.18 Any expense otherwise includable within the definition of Allowable Expense but which expense is passed directly through to a third-party unless the same is written off as uncollectible.

1.4 Allowances. "Allowances" shall mean and refer to the Capital Allowance, the Maintenance Allowance and the Per Passenger Allowance.

1.5 Alteration. "Alteration" shall have the meaning set forth in Section 6.1 below.

1.6 Amended and Restated Agreement. "Amended and Restated Agreement" shall refer to the Agreement, as amended and restated in this document, together with the Exhibits and all agreements supplemental to or modifying this agreement, whether made contemporaneously herewith or subsequent hereto.

1.7 Authorities. "Authorities" shall mean and refer to the United States, State, County, City or other local governmental or quasi-governmental authorities, or any department, office, or agency of the foregoing now existing or hereafter created.

1.8 Capital Allowance. "Capital Allowance" shall have the meaning set forth in Section 13.4.2 below.

1.9 Cruise Period. "Cruise Period" shall mean and refer to the period of time during each calendar year of the term, commencing seven (7) days prior to date on which the first cruise vessel is scheduled to call at the Terminal 91 Cruise Facility until seven (7) days after the date on which the last cruise vessel is schedule to call at the Terminal 91 Cruise Facility.

1.10 Default Rate. "Default Rate" shall mean and refer to 18% per annum or the maximum interest rate permitted by law for this transaction in the State of Washington, whichever is less.

1.11 Environmental Laws. "Environmental Laws" shall mean and refer to any and all Legal Requirements relating to the protection of human health and the environment.

1.12 Event Activities. "Event Activities" shall mean and refer to parties, weddings, conferences, trade shows, meetings and the like at the Terminal 91 Cruise Facility.

1.13 Event License. "Event License" shall have the meaning set forth in Section 2.3 below.

1.14 Event of Default. "Event of Default" shall have the meaning set forth in Section 18.1 below.

1.15 Event Reimbursement Agreement. "Event Reimbursement Agreement" shall mean and refer to the agreement between Tenant and Columbia Hospitality, Inc., an assignee of the Port under the Event License, by which Columbia Hospitality, Inc. agreed to compensate Tenant for wear and tear on the Pier 66 Cruise Facility and Terminal 30 Cruise Facility, the most recent revision of which agreement was approved by the Port on or about June 29, 2012. Event Reimbursement Agreement shall further refer to any subsequent revision and/or replacement of the agreement applicable to the Extension Term that is approved by the Port under the new management agreement with Columbia Hospitality, Inc., which new management agreement will commence on January 1, 2013.

1.16 Executive Personnel. "Executive Personnel" shall mean and refer to any officer, director or senior executive of either Tenant or any equity owner of Tenant, including but not

limited to John Oppenheimer, Dan Blackmore, Knud Stubkjaer, and Jeff Swanson and their successors, and any other or future employee who performs similar duties and has similar responsibilities.

1.17 Flow-Through Event Revenue. “Flow-Through Event Revenue” shall mean and refer to that portion of Tenant’s Gross Revenues attributable to any amounts paid to Tenant pursuant to Section 2.3 of this Amended and Restated Agreement and associated with the Port’s use of the Event License *except* amounts that constitute: (i) a direct, pass-through reimbursement of any utilities costs associated with the actual period of use under the Event License or (ii) a reimbursement for actual, out-of-pocket costs incurred by Tenant to repair any specific damage (i.e. *not* wear and tear) associated with the failure to return the portion of the Premises actually occupied in substantially the same condition in which received. Without limiting the generality of the foregoing, Flow-Through Event Revenue specifically includes any the payment under numbered Paragraph 10 of the Terminal 91 portion of current Event Reimbursement Agreement. It shall likewise include any other/further portion of “room rentals” or “net income” paid to Tenant under the current or any future iteration of the Event Reimbursement Agreement.

1.18 Gross Revenues. “Gross Revenues” shall mean and refer to the aggregate gross amount of revenue derived in, on or about the Premises or from Tenant’s Operations, and whether: (i) in cash, on credit or in kind, (ii) at wholesale, at retail or otherwise, and (iii) transacted by Tenant, by any persons, firms or corporations on Tenant’s behalf, or by any subtenants, licensees or concessionaires of Tenant (specifically including any Parking Operator), from, in or upon the Premises. Without limiting the generality of the foregoing, Gross Revenue specifically includes the following:

1.18.1 All charges for parking, dockage, wharfage, demurrage, storage, equipment rentals and passenger traffic fees attributable to the Premises;

1.18.2 All income from the short-term rental and/or usage of the Premises or any portion thereof;

1.18.3 All income derived from the sale of any goods, merchandise or services of any type or kind or in, on or about the Premises (including orders accepted by means of electronic, telephonic, video, computer or other technology based systems from sources other than the Premises); and

1.18.4 Any deposit not refunded.

Gross Revenue shall not include the following:

1.18.5 When properly recorded and accounted for, refunds allowed to customers because of unacceptable or unsatisfactory goods or services to the extent such refund was actually granted and adjustment actually made;



1.18.6 When properly recorded and accounted for, federal, state and local excise, sales, use or passenger taxes collected directly from customers as part of or based on the sales price of goods and services, collected as agent for the taxing body imposing the tax and billed to the customer as a separate item;

1.18.7 When properly recorded and accounted for, gratuities collected by or on behalf of employees;

1.18.8 Any amounts received by Tenant under any of the Allowances;

1.18.9 Any revenue from Event Activities undertaken by the Port or its assignee pursuant to the Event License;

1.18.10 Revenue derived from any item of expense which is passed directly through to a third-party (e.g., the cost of security provided for the benefit of cruise ships during port calls); provided, however, any markup on such pass-through expense shall be included within Gross Revenue.

1.18.11 Any revenue generated by the Port from any rights reserved to itself under Section 2.4 below.

1.19 Hazardous Substance. "Hazardous Substance" shall mean and refer to any hazardous or toxic substance, material or waste, including, but not limited to, those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. 172.101) or by the United States Environmental Agency as hazardous substances (40 C.F.R. Part 302 and amendments thereto), petroleum products and their derivatives, and such other substances, materials and wastes as are or become regulated or subject to cleanup authority by any jurisdiction under any Environmental Laws.

1.20 Ingress and Egress License. "Ingress and Egress License" shall have the meaning set forth in Section 2.1.4 below.

1.21 Legal Requirements. "Legal Requirements" shall mean and refer to all laws, statutes and ordinances including building codes and zoning regulations and ordinances and the orders, rules, regulations and requirements (whether now or hereafter in effect) of all federal, state, county, city or other local jurisdiction departments, agencies, bureaus, offices and other subdivisions thereof, or any official thereof, or of any other governmental, public or quasi-public authority, which may be applicable to or have jurisdiction over the Premises, or the sidewalks or streets adjacent thereto and all requirements, obligations and conditions of all instruments of record on the date of the Agreement. Legal Requirements shall also include all applicable rules and regulations of the Port pertaining to the Premises, whether now in existence or hereafter promulgated, for the general safety and convenience of the Port, its various tenants, invitees, licensees and the general public.

1.22 Lien. “Lien” shall mean and refer to any mortgage, lien, security interest, encumbrance, charge on, pledge of, conditional sale or other encumbrance on the Premises and any Alteration, fixture, improvement or appurtenance thereto.

1.23 Maintenance Allowance. “Maintenance Allowance” shall have the meaning set forth in Section 13.4.1 below.

1.24 Minimum Assured Income. “Minimum Assured Income” shall mean and refer to the sum of two hundred and twenty-five thousand dollars (\$225,000) per calendar year after 2015, which amount shall be prorated for any partial year.

1.25 Minimum Income Credit. “Minimum Income Credit” shall have the meaning set forth in Section 4.3 below.

1.26 Net Operating Income. “Net Operating Income,” which will generally be measured only on a yearly basis, shall mean and refer to Gross Revenues for the period minus: (i) Allowable Expenses for the period, (ii) Rent for the period, and (iii) leasehold excise tax for the period.

1.27 Notice of Default. “Notice of Default” shall mean and refer to written notice of any Event of Default to Tenant. Such notice, for all purposes, shall be in lieu of, and not in addition to, any notice required as a prerequisite to an unlawful detainer or similar action for possession of the Premises.

1.28 Operating Expenses. “Operating Expenses” shall have the meaning set forth in Section 12.1 below.

1.29 Parking Operator. “Parking Operator” shall mean and refer to the Parking Operator selected by Tenant pursuant to Section 8.1.8.

1.30 Per Passenger Allowance. “Per Passenger Allowance” shall have the meaning set forth in Section 13.4.3.

1.31 Percentage Rent. “Percentage Rent” shall have the meaning set forth in Section 4.1.

1.32 Permitted Encumbrances. “Permitted Encumbrances” means any and all encumbrances of record together with such matters that would be disclosed by a detailed inspection and/or survey of the Premises.

1.33 Port. “Port” or “the Port” shall mean and refer to the Port of Seattle, whose street address for purposes of notice is 2711 Alaskan Way, Seattle, Washington 98121, Attention: Director, Cruise & Maritime Operations and whose mailing address for purposes of notice is PO Box 1209, Seattle, Washington 98111, Attention: Director, Cruise & Maritime Operations. A

copy of any notice shall also be provided to Port of Seattle, Attn: Managing Director, Maritime, 2711 Alaskan Way, PO Box 1209, Seattle, WA 98111.

1.34 Port Directed Cruise Fee Revenue. “Port Directed Cruise Fee Revenue” shall mean and refer to that portion of Tenant’s Gross Revenues attributable to the Dockage Fee and Passenger Fee charged to passenger vessels and cruise ships under Section Four of Port of Seattle Terminal Tariff No. 5, or any amendment or replacement thereof, as the same may be modified or discounted in any written agreement with a cruise line(s) (e.g. the Long Term Preferential Berthing Agreement with Carnival Lines). In the event that the Port substantially revises the way that it charges passenger vessels and cruise ships under its terminal tariffs, “Port Directed Cruise Fee Revenue” shall then mean that portion of Tenant’s Gross Revenues attributable to such other items that are substantially intended to replace the Dockage Fee and/or Passenger Fee. For purposes of Tenant’s Gross Revenues from the Bundled Port Fees set forth in Item 4005 (or any amendment or replacement thereof), the Dockage Fee and Passenger Fee component shall be as itemized and set forth in the final calculation of the Bundled Port Fee prepared for, and documenting the composition of, the most recent update of the Bundled Port Fee in the terminal tariff. Port Directed Cruise Fee Revenue specifically do not include any Gross Revenues associated with (i) the Passenger Vessels Terminal 91 Facility Surcharge, (ii) fees associated with fresh water consumption, specifically including any hook-up fee, (iii) fees associated with security services (whether baseline or otherwise), (iv) fees associated with bunkering permits, (v) fees associated with Memorandum of Understanding with the Department of Ecology or (vi) fees, other than incremental Dockage Fees, associated with any delayed sailings.

1.35 Premises. “Premises” shall mean and refer to the Terminal 91 Cruise Facility, subject to the Permitted Encumbrances.

1.36 Qualifying Person. “Qualifying Person” shall mean and refer to either:

1.36.1 Tenant;

1.36.2 Any equity interest owners of Tenant (including, but not limited to, SSA Marine, Inc., General Steamship Agencies, Inc., and/or Columbia Hospitality, Inc.);

1.36.3 Any equity interest owner in any of those persons set forth in Section 1.36.2;

1.36.4 Any officer, director, manager, or employee in any of those persons set forth in Sections 1.36.1, 1.36.2 or 1.37.3; and

1.36.5 Any spouse, parent, child, sibling, aunt, uncle, niece, nephew, cousin, grandchild, grandparent or any parent-in-law, son- or daughter-in-law, or brother- or sister-in-law or any person set forth in Section 1.36.4.

1.37 Rent. “Rent” shall mean and refer collectively to sums denominated as Percentage Rent or any other sums or charges otherwise payable by Tenant under the terms of this Amended and Restated Agreement. Failure by Tenant to pay any sum denominated as Rent shall entitle the Port to pursue any or all remedies specified in this Amended and Restated Agreement as well as remedies specified in RCW Chapter 59.12 or otherwise allowed by law.

1.38 Restatement Date. “Restatement Date” shall mean and refer to October 1, 2015.

1.39 Revenue of Consequence. “Revenue of Consequence” shall mean and refer to that portion of Tenant’s Gross Revenues falling within Flow Through Event Revenue or Port Directed Cruise Fee Revenue.

1.40 Security. “Security” shall have the meaning set forth in Section 5.1 below.

1.41 Ship Activities. “Ship Activities” shall mean and refer to all activities related to the berthing of ships including, but not limited to, scheduling, security, passenger transportation and concierge services, baggage operations, deliveries, and stevedoring services.

1.42 Tenant. “Tenant” shall mean Cruise Terminals of America, LLC, whose address for purposes of notice is 2225 Alaskan Way, Suite 100, Seattle, WA 98121.

1.43 Tenant’s Operations. “Tenant’s Operations” shall mean and refer to all operations of Tenant in the conduct of Tenant’s business as a cruise terminal operator and/or all operations on or about the Premises or conducted off the Premises and related to operations conducted on or about the Premises.

1.44 Term. “Term” shall have the meaning set forth in Section 3.1 below.

1.45 Terminal 91 Access Areas. “Terminal 91 Access Areas” shall mean and refer to those areas established by the Port, from time-to-time, for access from public roadways to the Terminal 91 Lease Area, Terminal 91 Parking Area and/or Terminal 91 Preferential Use Area. Except as specifically provided in this Amended and Restated Agreement, the Port shall have exclusive control and management of the Terminal 91 Access Areas. Without limiting the Port’s right of control and management, the Port specifically reserves the right to: (i) establish, modify from time to time, and enforce reasonable rules and regulations governing the use of Terminal 91 Access Areas; (ii) change the area, level, location and arrangement of Terminal 91 Access Areas; (iii) provided Tenant is not deprived of reasonable access to the Terminal 91 Cruise Facility sufficient for Tenant’s use of the Terminal 91 Cruise Facility, close all or any portion of the Terminal 91 Access Areas; and (v) do and perform such other acts in and to the Terminal 91 Access Areas as may be reasonable with a view to the improvement of the convenience and use thereof by the Port and tenants of any larger Terminal 91 property of which the Terminal 91 Cruise Facility is a part.

1.46 Terminal 91 Cruise Facility. “Terminal 91 Cruise Facility” shall mean and refer to: (i) the Terminal 91 Lease Area, (ii) for the Cruise Period each year, the Terminal 91 Parking

Area and Terminal 91 Preferential Use Area, and (iii) the Terminal 91 Access Areas, together with the personal property currently located or to be installed thereon.

1.47 Terminal 91 Lease Area. “Terminal 91 Lease Area” shall mean and refer to that portion of the Port’s Pier 91 consisting of approximately two (2) acres, together with all improvements now existing or to be constructed on that portion of the parcel. The legal description and precise area of the Terminal 91 Lease Area are set forth on Exhibit B.

1.48 Terminal 91 Parking Area. “Terminal 91 Parking Area” shall mean and refer to those portions of the Port’s Terminal 91 designated by the Port from time-to-time for parking and vehicle staging associated with the operation of the Terminal 91 Cruise Facility. The Port shall provide Tenant with sufficient parking and truck staging areas to meet the parking (including passenger, longshore or otherwise) and truck staging needs of the Terminal 91 Cruise Facility. The Port shall, prior to the commencement of each Cruise Period, provide Tenant written notice of those portions of Terminal 91 to be used as the Terminal 91 Parking Areas. Except to the extent that Port makes provision for, and pays any cost associated with, the relocation of the Terminal 91 Parking Areas, the Port shall not relocate the Terminal 91 Parking Areas during the course of any one Cruise Period. During the non-Cruise Period, the parties acknowledge that the Terminal 91 Parking Area may constitute a portion of Terminal 91 that would otherwise fall within the Terminal 91 Preferential Use Area. For any off-season events requiring significant parking, Tenant shall notify the Port at least seven (7) days in advance of the event of the estimated parking demand and the Port will identify sufficient parking areas for the event.

1.49 Terminal 91 Parking Area License. “Terminal 91 Parking Area License” shall have the meaning set forth in Section 2.1.3 below.

1.50 Terminal 91 Preferential Use Area. “Terminal 91 Preferential Use Area” shall mean and refer to that portion of the Port’s Pier 91 consisting of approximately twelve (12) acres, having at least one thousand (1,000) lineal feet of moorage along both the east and west sides of Pier 91, together with all improvements now existing or to be constructed on that portion of the parcel. The legal description and precise area of the Terminal 91 Preferential Use Area are set forth on Exhibit C.

## ARTICLE 2: LEASE; PREFERENTIAL USE; CONDITION AND USE OF PROPERTY

2.1 Grant of Rights to Tenant. From and after the Restatement Date, and otherwise subject to all of the provisions, covenants and agreements contained in this Amended and Restated Agreement, the Port continues to grant to Tenant, and Tenant hereby accepts, the following rights:

2.1.1 *Lease*. The Port leases to Tenant the Terminal 91 Lease Area for the Term.

2.1.2 *Preferential Use*. The Port grants to Tenant a right of preferential use on a non-continuous, ship-by-ship basis of the Terminal 91 Preferential Use Area for the Term;

provided, however, such right of preferential use shall apply *only*: (i) for the Cruise Period, and (ii) to cruise vessels and associated Ship Activities. Except as expressly provided, Tenant shall have no other right to the Terminal 91 Preferential Use Area except as may be granted by the Port pursuant to the terms of Terminal Tariff No. 4, Terminal Tariff No. 5 or otherwise.

2.1.3 *Terminal 91 Parking Area License.* The Port grants to Tenant an irrevocable license (the “Terminal 91 Parking Area License”) to make use of the Terminal 91 Parking Area.

2.1.4 *License for Ingress and Egress.* The Port grants to Tenant an irrevocable license for ingress and egress but no other purpose (the “Ingress & Egress License”) to make use of Terminal 91 Access Areas. In making any use of the Ingress & Egress License provided for by this Section 2.1.4, the Tenant, its customers and their suppliers shall reasonably cooperate with Port in satisfying the terms of any non-discriminatory security plan adopted by Port or its tenant for the property of which the Terminal 91 Access Areas are a part.

2.2 Condition and Use of Terminal 91 Cruise Facility. Tenant acknowledges that it has received and accepted the Terminal 91 Cruise Facility. Tenant may use the Terminal 91 Cruise Facilities for the uses set forth in ARTICLE 7 of this Amended and Restated Agreement so long as such uses are in conformity with all Legal Requirements affecting the Premises, and Tenant will not, by action or inaction, take or allow any action or thing which is contrary to any legal or insurable requirement or which constitutes a public or private nuisance or waste.

2.3 Irrevocable License for Event Activities. Tenant continues to grant to the Port an irrevocable, assignable license (the “Event License”) to make use of the Terminal 91 Cruise Facility for Event Activities. In the exercise of the rights granted under the Event License, the Port or its assignee:

2.3.1 Shall not materially interfere with any Ship Activities, it being understood between the Parties that Ship Activities shall have priority over Event Activities;

2.3.2 Shall return that portion of the Premises actually occupied in substantially the same condition in which received;

2.3.3 Shall reimburse Tenant (to the extent paid by Tenant) for the reasonable cost of any utilities consumed in the enjoyment of the Event License without markup of any kind; and

2.3.4 Shall provide commercial general liability insurance, including liquor liability coverage, against claims for injury or death to persons or damage to property occurring on or about that portion of the Premises actually occupied in an amount not less than \$2,000,000 combined single limit for each occurrence. Notwithstanding Section 11.6.1, this insurance shall, to the extent of the limits set forth in this Section 2.3.4, be primary and non-contributory with any insurance carried by Tenant pursuant to Section 11.2.1.

In the event of the Port or its assignee makes use of the Event License, any and all applicable charges deriving from and/or revenues attributable to such use shall accrue to the benefit of, and shall be billed and retained by, the Port. Except as either: (i) specifically provided in this Amended and Restated Agreement, or (ii) set forth in the Event Reimbursement Agreement, Tenant shall not charge the Port or its assignee any fee associated with the use of the Event License.

2.4 Port Use of Terminal 91 Preferential Use Area, Parking Area and Access Area. Except to extent the use of the Terminal 91 Preferential Use Area, Terminal 91 Parking Area or Terminal 91 Access Area is expressly granted to Tenant under, respectively, Sections 2.1.2, 2.1.3, and 2.1.4, the Port reserves to itself all right of use of the Terminal 91 Preferential Use Area, Terminal 91 Parking Area and Terminal 91 Access Area for any purposes whatsoever. Any and all applicable charges deriving from and/or revenues attributable to such use shall accrue to the benefit of, and shall be billed and retained by, the Port.

2.5 Rights Reserved to the Port. Tenant acknowledges that Tenant's right to utilize the Premises shall at all times remain subject to the Port's reserved right described in Sections 2.3, 2.4, 19.6 and 22.7.

#### ARTICLE 3: TERM

3.1 Term. The Term of this Amended and Restated Agreement shall continue from the Restatement Date until December 31, 2019.

#### ARTICLE 4: RENT

4.1 Percentage Rent. For and in consideration of Tenant's rights in the Pier 91 Cruise Facility, Tenant shall pay to the Port percentage fees (collectively "Percentage Rent") as follows:

4.1.1 Percentage of Port Directed Cruise Fee Revenue. Tenant shall pay the Port a portion of the Port Directed Cruise Fee Revenue as set forth below.

For the Tenant's Rights In	Percentage of Port Directed Cruise Fee Revenue
Terminal 91 Lease Area, and Terminal 91 Parking Area	26.4%
Terminal 91 Preferential Use Area	61.6%

Pursuant to Section 4.4, the amounts associated with the Terminal 91 Lease Area and the Terminal 91 Parking Area are considered Contract Rent subject to Leasehold Excise Tax and the amounts associated with the Terminal 91 Preferential Use Area are not considered Contract Rent subject to Leasehold Excise Tax.

4.1.2 Percentage of Flow-Through Event Revenue. Tenant shall pay the Port twenty-five percent (25%) of Flow-Through Event Revenue. Pursuant to Section 4.4, this portion

of the Percentage Fee is attributable to the Terminal 91 Lease Area and is subject to Leasehold Excise Tax.

4.1.3 Payment of Percentage Rent. The Percentage Rent shall be paid monthly, with respect to Revenue of Consequence made during the month, within fifteen (15) days after the end of each calendar month; provided, however, Percentage Rent for the months of May and June each year shall be due within thirty (30) days (and not fifteen days) after the end of the month of May and June, respectively. Together with remittance of Percentage Rent, Tenant shall submit a written report in a form acceptable to the Port wherein Tenant shall set forth the number of cruise passengers for the month, the Revenue of Consequence for the month and the Percentage Rent, if any, due for such month. Tenant or an officer of Tenant shall certify that the report is a true and correct statement of the Revenue of Consequence.

4.2 Annual Reconciliation. Within thirty (30) days after the end of each calendar year during the Term of this Amended and Restated Agreement or after the expiration of sooner termination thereof, Tenant shall have verified with each cruise line having called at the Terminal 91 Cruise Facility (and for the calendar year 2015 report, the Pier 66 Cruise Facility (as defined in the Agreement)) during the year the total number of cruise passengers for the year, broken down by vessel. Tenant shall further, based on that verified figure, compute the total amount of Gross Revenue, Allowable Expenses and Net Operating Income for such calendar year, but Tenant shall specifically *not* be required to report these amounts unless it claims the Minimum Income Credit. Subject to Tenant's potential claim of the Minimum Income Credit, Tenant shall within said thirty-day period, submit to the Port a reconciled report reflecting the total number of cruise passengers for the calendar year, the total Revenue of Consequence for the year, and the total amount of Percentage Rent due for the calendar year, and, if the total amount of Percentage Rent due for such calendar year is less than the total Percentage Rent paid for such year, Tenant shall pay the Port any deficiency. If the total amount of Percentage Rent paid for such calendar year exceeds the total Percentage Rent due for such calendar year and Tenant is not otherwise in default, then the Port shall credit such excess to the payment of any Percentage Rent and or other sums which may thereafter become due to the Port; provided, however, upon expiration or sooner termination of this Amended and Restated Agreement, if Tenant has otherwise complied with all other terms and conditions of this Amended and Restated Agreement, the Port shall refund such excess to Tenant.

4.3 Contingent Rent Credit for Minimum Income. In the event that Tenant's annual Net Operating Income, as calculated pursuant to Section 4.2, is less than the Minimum Assured Income, Tenant shall be entitled to a credit (the "Minimum Income Credit") as set forth in this Section.

4.3.1 Amount of Credit. The credit shall be equal to the amount by which Tenant's annual Net Operating Income is less than the Minimum Assured Income. If the credit is applicable, thirty percent (30.00%) of the credit amount shall be applied against those items of Rent treated as Contract Rent and seventy percent (70.00%) shall be applied against those items of Rent not treated as Contract Rent.



4.3.2 Audit Required. In the event that Tenant believes it is entitled to take the Minimum Income Credit, it shall promptly (and in no event later than the date for submission of the annual reconciliation under Section 4.2) notify the Port of this fact and the expected amount of the credit. The Port shall then promptly commission an audit of Tenant's books and records to determine whether Tenant's Net Operating Income is below the Minimum Assured Income. The audit may be conducted by the Port's internal audit staff or a third-party certified public accountant contracted to the Port. As part of the audit, the selected auditor will specifically test Tenant's compliance with the terms of this Amended and Restated Agreement, specifically including those provisions related to payment to Affiliates and Qualified Persons under Section 1.5.14; provided, however, the parties agree that Tenant shall (notwithstanding Section 1.5.14) only be required to identify those Affiliates or Qualified Persons with whom it intends to contract prior to each cruise season and that determination of whether the amount charged for such services are reasonable shall, unless Tenant specifically requests otherwise at the time the list of Affiliates and/or Qualified Persons is submitted, be assessed at the time of the audit. Tenant shall reasonably cooperate with the audit and shall be responsible for 50% of the cost of the audit, which amount shall *not* be an Allowable Expense; provided, however, Tenant's share of the cost of the audit shall in no event exceed \$25,000.

4.3.3 Taking Rent Credit. Pending the completion of the audit, and thereafter only to the extent the audit determines that Tenant is entitled to the Minimum Income Credit, Tenant shall be entitled to take the Minimum Income Credit against any additional Percentage Rent due at the time that Tenant submits the Annual Reconciliation required by Section 4.2. In the event that application of the Minimum Income Credit results in Tenant's having paid Percentage Rent for a calendar year in excess of the amount Percentage Rent due for such calendar year, the Port shall, if Tenant is not otherwise in default in any material respect under the terms of this Amended and Restated Agreement, credit such excess to the payment of any Percentage Rent which may thereafter become due to the Port; provided, however, upon expiration or sooner termination of this Amended and Restated Agreement, if Tenant has otherwise complied in all material respects with all other terms and conditions of this Amended and Restated Agreement, the Port shall refund such excess to Tenant.

4.4 Contract Rent. The Port and Tenant agree that the amounts associated with the Terminal 91 Lease Area and Terminal 91 Parking Area shall be "Contract Rent," as that term is defined in Chapter 82.29A of the Revised Code of Washington and Chapter 458-29A of the Washington Administrative Code, for the rights of possession and use of publicly owned real and personal property granted by this Amended and Restated Agreement. All amounts associated with the Terminal 91 Preferential Use Area shall be consideration for rights less than possession and/or use of publicly owned real and personal property. By approving the terms of this Amended and Restated Agreement in an open public meeting, it is the intention of the Port to declare that the "Contract Rent" as set forth in this Section 4.4 was the maximum amount attainable for the rights and responsibilities set forth in this Amended and Restated Agreement, considering alternative uses for the Premises, and considering the condition, and any restrictions on the use, of the Premises. All percentage amounts set forth in Section 4.1 shall be *exclusive* of any Leasehold Excise Tax due on such amounts, even if it may subsequently be determined that

any amount excluded from Contract Rent under this Section is, in fact, subject to Leasehold Excise Tax.

4.5 Records. Tenant shall keep true and accurate accounts, records, books and data, which shall show all Gross Revenues and Allowable Expenses from Tenant's Operations. Tenant further agrees to keep in the Seattle area, books and records in accordance with good accounting practice, and such records as the Port may request. The duplicate invoices, any and all other books and records of Tenant as aforesaid, shall be open for inspection by authorized representatives of the Port at all reasonable times during business hours; provided, however, the Port shall have only have the right to inspect those records (i) relevant to the Revenue of Consequence or (ii) necessary to reasonably determine Tenant's compliance with the non-revenue requirements of this Amended and Restated Agreement unless, until and for any year in which Tenant claims the Minimum Income Credit. In the event Tenant's records are not kept in the Seattle area, they shall be made available to the Port for inspection within five (5) business days.

4.6 Audit.

4.6.1 Tenant shall maintain during the term of this Amended and Restated Agreement all books of account and records customarily used in this type of operation, and as may from time to time be required by the Port, in accordance with generally accepted accounting principles, and for such period of time thereafter as provided herein unless otherwise approved by the Port. The Port shall be permitted to audit and examine all such records and books of account relating to the operation of Tenant's Operations but only to the extent (i) relevant to the Revenue of Consequence or (ii) necessary to reasonably determine Tenant's compliance with the non-revenue requirements of this Amended and Restated Agreement unless, until and for any year in which Tenant claims the Minimum Income Credit. Tenant shall not be required to maintain such enumerated records for more than three (3) years after the end of each twelve (12) month period. All such documents shall be made available for audit locally within five (5) business days or Tenant shall pay in full, any travel and related expenses of Port representative(s) to any location out of the Seattle area.

4.6.2 The cost of any audit (other than one under Section 4.3.2) shall be borne by the Port unless the results of such audit reveals an understatement of Percentage Rent of more than two percent (2%) reported for any twelve (12) month period. In the event of such discrepancy, the full cost of the audit shall be borne by the Tenant, and Tenant shall promptly pay all additional fees owing to the Port. In addition, Tenant shall pay the Port interest on all sums due hereunder at the Default Rate, from the date due until paid. If, through the process of the audit, Tenant has overpaid the Port a credit will be issued after deducting the costs of the audit.

4.7 Annual Plan. Not later than August 1 of each year thereafter (with an initial draft no later than July 1), Tenant shall submit to the Port an annual plan for the Premises for the following calendar year. The annual plan must provide reasonable estimates of Revenue of Consequence. The annual plan will also include a narrative description of the proposed

operations and security program. To the extent that Tenant expects to make use of any portion of the Maintenance Allowance, the Capital Allowance or the Per Passenger Allowance during the calendar year, the annual plan must also include a breakdown of all proposed projects/expenditures from the Maintenance Allowance, the Capital Allowance and/or the Per Passenger Allowance (other than for unexpected items arising during the course of the calendar year) for the Port's review and approval. The annual plan will be Tenant's best estimate of operations for the following calendar year and the parties recognize that actual results may vary from the annual plan.

4.8 Additional Responsibility. In addition to the Percentage Rent described in Section 4.1, Tenant covenants and agrees to pay the following: (a) taxes as set forth in ARTICLE 10; (b) insurance costs as set forth in Section 11.2; (c) Operating Expenses as set forth in Section 12.1; (d) utility charges as set forth in Section 12.2; (e) maintenance and repair expenses as set forth in ARTICLE 13 and (f) any other cost or expense associated with Tenant's Operations on or occupation of the Premises, of whatever description, and whether imposed in the first instance on the Port or Tenant. In the event that the Port pays any of these amounts in the first instance or provides any services to Tenant for which Tenant is financially responsible, Tenant shall reimburse the Port for such amounts, and such reimbursement shall become due within thirty (30) days of invoice by the Port unless otherwise provided and shall be paid to the Port without deduction, set-off or abatement whatsoever.

4.9 Remittance Address. Any and all payments due to the Port by Tenant shall be remitted to the following address: Port of Seattle, PO Box 24507, Seattle, WA 98124-0507, or at such other place as the Port may direct in writing.

4.10 Late Payment. If any payment of Rent is not received by the Port within ten (10) days of when due, Tenant shall pay to the Port a late payment charge equal to five percent (5%) of the amount of such delinquent payment of Rent in addition to the installment of Rent then owing, regardless of whether or not a Notice of Default has been given by the Port. In addition, if such delinquent payment of Rent and late charge are not received within fifteen (15) days of when such delinquent payment of Rent was originally due, Tenant shall further pay interest on such delinquent payment of Rent and late charge thereafter at the Default Rate. The Port and Tenant recognize that the damages which the Port will suffer as a result of Tenant's failure to timely pay Rent are difficult or impracticable to ascertain, and agree that said interest and late charge are a reasonable approximation of the damages that the Port will suffer in the event of Tenant's late payment. This provision shall not relieve Tenant from payment of Rent at the time and in the manner herein specified. Acceptance by the Port of any such interest and late charge shall not constitute a waiver of Tenant's default with respect to said overdue amount, nor shall it prevent the Port from exercising any other rights or remedies available to the Port.

## ARTICLE 5: BOND OR OTHER SECURITY

5.1 Security. After the Restatement Date, Tenant shall continue to maintain a good and sufficient corporate surety company bond, irrevocable stand-by letter of credit, cash deposit or other security in an amount equal to three hundred thousand dollars (\$300,000.00) (hereinafter

referred to as “Security”), to secure Tenant’s full performance of this Amended and Restated Agreement, including the payment of all fees and other amounts now or hereafter payable to the Port hereunder. The amount, form, provisions and nature of the Security, and the identity of the surety or other obligor thereunder, shall at all times be subject to the Port’s approval. The Security shall remain in place at all times throughout the full term of this Amended and Restated Agreement and throughout any holdover period. If the Security is in a form that periodically requires renewal, Tenant must renew the Security not less than 45 days before the Security is scheduled to expire. No interest shall be paid on the Security and the Port shall not be required to keep the Security separate from its other accounts. No trust relationship is created with respect to the Security.

5.2 Return of Security. The Security is a part of the consideration for execution of this Amended and Restated Agreement. If Tenant shall have fully performed all terms and conditions of this Amended and Restated Agreement, any cash deposit security shall be paid to Tenant within thirty (30) days following the termination (or expiration) date without interest; otherwise the Port shall, in addition to any and all other rights and remedies available under this Amended and Restated Agreement or at law or equity, retain title thereto.

5.3 Application of Security. The Port may apply all or part of the Security to unpaid rent or any other unpaid sum due hereunder, or to cure other defaults of Tenant. If the Port uses any part of the Security, Tenant shall restore the Security to its then-currently required amount within fifteen (15) days after the receipt of the Port’s written request to do so. The retention or application of such Security by the Port pursuant to this Section does not constitute a limitation on or waiver of the Port’s right to seek further remedy under law or equity.

## ARTICLE 6: ALTERATIONS; OWNERSHIP OF CERTAIN INSTALLATIONS

6.1 Alterations. Tenant shall make no alterations or improvements to or upon the Premises or install any fixtures (other than trade fixtures, business equipment or furnishings that can be removed without injury to the Premises) (collectively, “Alterations”) without first obtaining written approval from the Port and subject to any and all conditions in such approval.

6.2 Alterations Related to Security. Notwithstanding anything to the contrary in Section 6.1, Tenant shall, at its sole cost and expense, be obligated to provide any necessary Alterations required to satisfy any security requirement related to cruise vessel Ship Activities and imposed by the United States Federal Investigative Services, Coast Guard, Transportation Security Administration or any other governmental agency responsible for security, and the Port agrees that it will not unreasonably withhold or condition its consent to such Alterations. In the event that the cost required to satisfy any new security requirement (or integrated group of security requirements imposed as part of a single governmental agency action) is expected to exceed the sum of two hundred thousand dollars (\$200,000.00), the Port and Tenant shall, at Tenant’s request, meet to discuss the implementation and funding of such Alteration(s). In the event that such required Alteration(s) would materially impact Tenant’s cash flows (such that Tenant may be required to borrow substantial working capital to complete such Alterations) or financial results (after considering use of the Allowances and application of the rent credits

provided under Section 4.3) and the Port is unwilling to make any accommodation to Tenant regarding the performance of such Alterations, Tenant may terminate this Amended and Restated Agreement on sixty (60) days advance notice to the Port.

6.3 Requirements for All Alterations. Any Alteration shall be performed (i) in a good and workmanlike manner, (ii) in compliance with all Legal Requirements, and (iii) in a manner that will not unreasonably interfere with or disturb the Port or its tenants.

6.4 Ownership. In the event Tenant makes any Alterations (other than the installation of trade fixtures, business equipment or furnishings that can be removed without injury to the Premises), they shall at once become a part of the realty and/or become the property of the Port. Tenant shall retain ownership of all trade fixtures, business equipment and furnishings from time to time installed by Tenant at its expense; provided, however, any trade fixtures, business equipment, furnishings or any other equipment funded by any of the Allowances shall be the property of the Port. Tenant may remove any of such fixtures, equipment or furnishings the ownership of which is retained by Tenant at any time during the Term and shall remove all thereof prior to the expiration of the Term. Any such property not removed at the expiration of the Term shall, at the election of the Port, become the property of the Port without payment to Tenant, or be deemed abandoned and removed by the Port, at Tenant's expense. Upon any removal of such property, Tenant shall promptly repair any and all damage to the Premises caused thereby and reimburse the Port for its costs and expenses in removing any such property not removed by Tenant and repairing any such damage not repaired by Tenant; this covenant shall survive the termination of this Amended and Restated Agreement.

## ARTICLE 7: USE

7.1 Use of Premises. Subject to and in accordance with all present and future Legal Requirements, Tenant covenants and agrees that it shall use the Premises as a cruise terminal and for other uses acceptable to the Port in its reasonable judgment. Tenant will actively work to attract, promote and facilitate cruise traffic. Port and Tenant acknowledge and agree that the objective of the Port and the Tenant is to maximize the revenue generated from activities on the Premises and that uses in addition to the operation of a cruise facility will be required to do so. Notwithstanding the foregoing, Tenant shall not be permitted to use any portion of the Terminal 91 Preferential Use Area for purposes other than cruise Ship Activities. Tenant may not, under any circumstances, use the Premise for any "industrial activity" as that term is used in the Washington State Department of Ecology's Stormwater Management Manual for Western Washington (August 2001), as it now exists or may subsequently be revised.

### 7.2 General Standards Governing Use.

7.2.1 Tenant shall not use or occupy or permit the Premises or any part thereof to be used or occupied, not do or permit anything to be done in or on the Premises, in whole or in part, in a manner which would in any way (i) violate any present or future Legal Requirements, or (ii) violate any of the covenants, agreements, provisions and conditions of this Amended and Restated Agreement, or (iii) violate the certificate of occupancy then in force with respect

thereto, or (iv) may make it difficult for either the Port or Tenant to obtain fire or other insurance required hereunder, or (v) as will constitute a public or private nuisance.

7.2.2 Tenant shall not use or occupy or permit the Premises to be used or occupied, in whole or in part, in a manner which, in the Port's reasonable judgment, may or tends to, impair or interfere with (i) the character, reputation or appearance of the Premises or the Port; or (ii) the use of any other Port property, or occasion discomfort, inconvenience or annoyance to, the Port or any of its tenants or occupants of any adjacent property.

7.3 Signs. No signs or other advertising matter, symbols, canopies or awnings shall be attached to or painted on or within the Premises, including the walls, windows and doors thereof, without the prior written approval of the Port. At the termination or sooner expiration of this Amended and Restated Agreement, all such signs, advertising matter, symbols, canopies or awnings attached to or painted by Tenant shall be removed by Tenant at its own expense, and Tenant shall repair any damage or injury to the Premises and correct any unsightly condition caused by the maintenance and removal of said signs, etc.

#### ARTICLE 8: TENANT'S OPERATION OF PREMISES

8.1 Ship Activities. Except to the extent arising under the Port's right of Secondary Use, Tenant shall manage and coordinate all Ship Activities at the Premises in a manner that supports the growth of cruise business in Seattle, including:

8.1.1 *Scheduling*. Process all berth applications for the Premises for cruise ships. The Port shall, pursuant to Section 9.2, be responsible for approving all applications for homeport cruise ship applications. Subject to the Port's berthing policy, Tenant shall be responsible for approving all port-of-call cruise ship and non-cruise ship applications. Tenant shall maintain an on-line, up-to-date ship schedule that shall be accessible to (but not modifiable by) the Port at all times.

8.1.2 *Security*. Manage the security operations at the Premises on cruise ship days, as necessary. This will include, as necessary, security staff who will provide security guards and security equipment operators for terminal security together with any commissioned police officers. In addition, in the event that the United States Federal Investigative Services, Coast Guard, Transportation Security Administration or any other governmental agency responsible for security imposes any material obligation for waterside security in connection with cruise vessel Ship Activities, Tenant shall be responsible, at its cost, for arranging for such security.

8.1.3 *Passenger Transportation and Concierge Services*. Coordinate with the cruise line tour operator all passenger movement within and through the Premises, ground transportation outside the Premises, including off-site staging areas, during disembarkation and embarkation, and concierge services for passengers.

8.1.4 *Baggage Operations.* Coordinate ship passenger luggage within the cruise terminal facilities.

8.1.5 *Deliveries.* Coordinate deliveries of provisions, stores and freight with port agent and stevedore company.

8.1.6 *Stevedoring Services.* Tenant shall engage the stevedoring services provider for all terminal handling, which shall include equipment, labor and the movement of luggage between the terminal and the dock, provided, however, the rates and charges for these terminal handling services shall at all times match industry standards. Tenant shall accommodate the vessel stevedoring services provider(s) selected by the respective cruise lines or their agents.

8.1.7 *Hospitality Services.* Coordinate all hospitality services, including food and beverage service, to passengers and guests on cruise ship days.

8.1.8 *Parking.* Tenant shall be responsible for all parking, whether passenger, longshore, guest or otherwise, associated with cruise Ship Activities at the Terminal 91 Cruise Facility. To the extent any courtesy shuttling, whether of passengers, longshore or otherwise, is required, Tenant shall also provide all such service.

8.1.8.1 Tenant may select a parking operator (the "Parking Operator") to operate the parking and undertake all parking operations and/or parking services at the Terminal 91 Cruise Facility. The agreement with the Parking Operator shall be subject to the Port's reasonable approval; provided, however, to the extent that the Port approved any agreement with a Parking Operator prior to the Restatement Date, Tenant shall not be required to again obtain an approval for that agreement after the Restatement Date.

8.1.8.2 Tenant shall, directly or through the Parking Operator, provide at then-prevailing market rates all parking services associated with cruise ship activities at the Terminal 91 Cruise Facility. Except to the extent permitted by the Port in writing, the Terminal 91 Cruise Facility shall be operated as a self-park facility. To the extent necessary for smooth and efficient operation of parking at the Terminal 91 Cruise Facility, passengers shall be required to pre-pay for their parking. To the extent Tenant does not obtain pre-payment for parking, Tenant shall ensure smooth and efficient payment following the passengers' return to the parking.

8.1.8.3 Tenant shall also provide, within the Terminal 91 Parking Area, sufficient parking spaces for use by the stevedores participating in cruise Ship Activities at no cost to the stevedores, and sufficient spaces for use by the United States Customs and Border Protection Service and the Immigration and Naturalization Service at no cost to either.

8.2 Traffic Control and Directional Signage. The Port shall, as part of the construction of the Terminal 91 Cruise Facility, provide sufficient directional signage for the location and efficient operation of all vehicle operations associated with cruise Ship Activities. Unless as a result of a major relocation of the Terminal 91 Access Area and/or Terminal 91 Parking Area,

any revisions to or replacements of such signage shall be the responsibility of Tenant. To the extent necessary, Tenant shall also provide sufficient staff to ensure the orderly flow of traffic on and over the Terminal 91 Cruise Facility.

8.3 Event Activities. Tenant shall coordinate with the Port, or its assignee, in the exercise of rights granted under the Event License. Tenant shall specifically cooperate with the Port, or its assignee, to ensure that the portion of the Premises being used for Event Activities is in good condition and repair and that all building systems (including, but not limited to, electrical, HVAC, elevator/escalator, etc.) are operational and available for use in connection with the Event Activities.

8.4 Contracts for Goods and Services. Although Tenant has no authority whatsoever to enter into contracts on the Port's behalf or bind the Port, all contracts for acquisition of any furniture, fixtures, equipment and/or services provided to the Premises and necessary for the operation of the Premises as a cruise terminal shall contain a provision: (i) that the Port of Seattle is a third-party beneficiary of the agreement, (ii) that all representations, warranties and guaranties are fully assignable to the Port of Seattle, and (iii) that the contract may be assigned to and assumed by the Port of Seattle in the event of termination of this Amended and Restated Agreement.

8.5 Billing. Tenant shall undertake all commercially reasonable efforts necessary to collect, all amounts chargeable to or collectible from third parties for the use of the Facility. All amounts billed for dockage, wharfage, passenger fees, fresh water and other terminal fees shall be as set forth in the Port's Terminal Tariff Number 4 and Number 5, as applicable (and as amended from time to time), unless otherwise agreed by the Port in writing.

8.6 Continuous Operations. During the term of this Amended and Restated Agreement, Tenant shall continuously conduct the business of operating and promoting the use of the Premises for ship operations and other approved uses.

8.7 Tours. Tenant shall coordinate all media, travel agent and VIP tours with tour operator, port agent, security, Port staff and cruise line representatives.

8.8 Marketing. Tenant will assist the Port in marketing the Facility to additional cruise ship operators, but the Port will have primary responsibility.

8.9 Cap on Markup for Security Services. The Port and Tenant agree that Tenant shall not be permitted to charge a markup on third-party security services (whether included in any bundled rate or charged as a separate line item) in excess of fifteen percent (15%). The Port and Tenant further agree that the charges for security services intended to recover the cost of Port and/or Tenant provided security services (e.g. reimbursement amounts for X-ray machines and magnetometers) shall be reasonable in light of the cost of acquisition, operation, maintenance, repair and replacement. The Port and Tenant agree that compliance with these requirements shall be conclusively determined by the Parties on a year-by-year basis as part of the annual exercise by the Port of establishing the bundled cruise fee amounts.



#### 8.10 Continued Confirmation Of Previous Letter Agreements.

##### 8.10.1 Understanding Regarding Pass-Through Items in Light of Bundled Fee.

As set forth in that certain letter dated March 24, 2009, the Port and Tenant recognize that the Port's shift to "bundled" fees in 2008 made it significantly more difficult to account for those items properly excluded from Allowable Expenses and Gross Revenues under, respectively, Sections 1.3.18 and 1.18.10 of this Amended and Restated Agreement as "pass-throughs." Tenant may properly exclude from Allowable Expenses and Gross Revenues the amounts actually paid for those portions of any security services provided by third parties, the fee for fresh water hook-up and fire department fee for bunkering permit, all of which fees would otherwise have been separately stated and paid. This exclusion does not, however, apply to any markup on these items or the collection of any amounts in excess of the actual pass-through expense amount based on the fact that the cruise ships passenger loads frequently exceed one hundred percent of lower berth capacity, on which percentage the per-passenger amount included in the bundled fee is based.

8.10.2 Understanding Regarding Terminal 91 Facility Surcharge. As set forth in that certain letter dated April 29, 2009, the Port and Tenant agree that Tenant shall be obligated to collect the Passenger Vessel Terminal 91 Surcharge as set forth the Port's Terminal Tariff No. 5 (or any amendment or successor thereto), that this surcharge shall not be included within either Gross Revenues or Allowable Expenses, and that Tenant shall remit the surcharge to the Port without offset, reduction or other handling charge. Furthermore, in the event that the Port in the future implements a similar charge that is intended to defray the cost of specific investments/improvements by the Port and which is imposed in addition to, and not in lieu of, dockage, passenger and/or bundled fees for cruise lines, the same rule shall apply.

8.10.3 Understanding Regarding Licensee Revenue. As set forth in that certain letter dated May 7, 2012, the Port and Tenant recognize that Tenant regularly grants licenses/permits for third parties to operate from the Terminal 91 Cruise Facility where the services provided by those vendors are primarily provided as a customer convenience and not to fulfill any of Tenant's basic obligations under this Amended and Restated Agreement. As a result, the Port and Tenant expressly agree that any revenues generated by such vendors, as set forth annually on a list submitted by Tenant and approved by the Port shall, notwithstanding Sections 1.18 and 1.18.3 of this Amended and Restated Agreement, *not* be included within Tenant's Gross Revenues. Instead, only the license/permit fee paid by such vendors shall be included within Gross Revenues as provided by Section 1.18.2 of this Amended and Restated Agreement.

#### ARTICLE 9: PORT OBLIGATIONS RESPECTING TENANT OPERATIONS

9.1 Tariff Rates. The Port shall be responsible for determining the rates for dockage, wharfage, passenger fees, fresh water and other terminal charges as set forth in the Port's tariffs, which may be revised or replaced from time to time. At the Port's discretion in consultation with

Tenant, the Port shall also have the ability to deviate from charges set forth in the Port's Terminal Tariff Number 4 and Number 5 for specific customers and/or transactions. The Port shall also reasonably consider, and respond within two business days to, any request provided in the manner for notice from Tenant to deviate from the charges set forth in the Port's Terminal Tariff Number 4 and 5 in order to induce or retain business at the Premises and if the Port fails to respond within the time provided, it shall be deemed to have assented to Tenant's request.

9.2 Marketing. The Port shall be primarily responsible for marketing the Premises for cruise ship activities and approving all berth applications for home-port cruise vessels. The Port shall, concurrent with its annual budgeting process, prepare a marketing plan and budget for the Premises. The Port shall reasonably consult with Tenant in the preparation of the marketing plan but shall retain sole discretion as to the content of, and budget for, the marketing plan.

9.3 Public Relations. The Port shall be responsible for all public affairs and community relations relating to the Premises. This shall include handling all press inquiries related to the Premises and its operations and issuing any press releases necessary or beneficial for the operation of the Premises. This shall also include attending all meetings related to, and coordinating all information necessary for, events such as Seafair, Maritime Week, etc. The Port shall not, however, be responsible for performing any public affairs or community relations for or on behalf of Tenant.

## ARTICLE 10: REAL AND PERSONAL PROPERTY TAXES

10.1 Payment of Real Property Taxes by Tenant. Tenant shall be liable for, and shall pay throughout the term of this Amended and Restated Agreement, all license and excise fees payable for, or on account of, the activities conducted on the Premises and all taxes on the property on the Premises and any taxes on the Premises and/or on the leasehold interest created by this Amended and Restated Agreement and/or any taxes levied in lieu of a tax on said leasehold interest and/or any taxes levied on, or measured by, fees payable hereunder, whether imposed on Tenant or on the Port. Tenant shall reimburse the Port for all such taxes paid or payable by the Port. With respect to any such taxes payable by the Port that are on or measured by the rent or fee payments hereunder, Tenant shall pay to the Port with each rent or fee payment an amount equal to the tax on, or measured by that particular payment. All other tax amounts for which the Port is or will be entitled to reimbursement from Tenant shall be payable by Tenant to the Port at least fifteen (15) days prior to the due dates of the respective tax amounts involved; provided, that Tenant shall be entitled to a minimum of ten (10) days' written notice of the amounts payable by it.

10.2 Tenant's Personal Property Taxes. Tenant shall pay or cause to be paid, prior to delinquency, any and all taxes and assessments levied upon all trade fixtures, inventories and other real or personal property placed or installed in and upon the Premises by Tenant. If any such taxes on Tenant's personal property or trade fixtures are levied against the Port or the Port's property, and if the Port pays the taxes based upon such increased assessment, Tenant shall, upon demand, repay to the Port the taxes so levied.

## ARTICLE 11: INDEMNITY AND INSURANCE

11.1 Indemnity. The Port, its employees and agents will not be liable for any injury (including death) to any persons or for damage to any property regardless of how such injury or damage was caused, sustained, or alleged to have been sustained by Tenant or by others, including but not limited to all persons directly or indirectly employed by Tenant, or any agents, contractors, or subcontractors of Tenant, as a result of any condition (including existing or future defects in the Premises) or occurrence (including failing or interruption of utility service) whatsoever related in any way to the Premises, or related in any way to Tenant's use of the Premises, except to the extent caused by or resulting from the Port's reckless acts or gross negligence. Except to the extent the Port has waived its right of recovery, Tenant shall defend (with counsel approved by the Port), indemnify, and hold harmless the Port, its employees and agents from any and all loss, damages and expenses (including attorneys' fees, costs and expenses of litigation) for or from: (a) any activity, work or thing done, permitted or suffered by Tenant in or about the Premises or out of the use or occupancy of the Premises by Tenant or any licensee, assignee or concessionaire of Tenant; and (b) any accident, injury, death or damage whatsoever caused to any party in or about the Premises or upon the sidewalks adjacent thereto, whether or not caused by the negligence of Tenant or any third party; (c) any fault or negligence by Tenant or any licensee, assignee or concessionaire of Tenant or of any officer, agent, employee, guest or invitee of any such person; and (d) any failure on Tenant's part to comply with any of the covenants, terms and conditions contained in this Amended and Restated Agreement. Tenant agrees that the foregoing indemnity specifically covers actions brought by its own employees, and thus Tenant expressly waives for the benefit of the Port but not for the benefit of any third parties including employees of Tenant its immunity under industrial insurance (including Title 51 RCW) as necessary to effectuate this indemnity. Notwithstanding the foregoing, to the extent that RCW 4.24.115 is deemed to apply to any indemnification obligation arising under this Section 11.1 (and only to that extent), in the event of the concurrent negligence of Tenant, its subtenants, licensees, assignees, concessionaires, agents, employees, or contractors on the one hand and the negligence of the Port, its agents, employees or contractors on the other hand, Tenant's obligation to indemnify the Port as set forth in this Section 11.1 shall be limited to the extent of Tenant's negligence and that of Tenant's officers, sublessees, assignees, agents, employees, contractors or licensees, including Tenant's proportional share of costs, court costs, attorneys' fees, consultants' fees and expenses incurred in connection with any claim, action or proceeding brought with respect to such injury or damage.

11.2 Insurance. Tenant shall obtain and keep in force, at its sole cost and expense, during the Term of this Amended and Restated Agreement the following types of insurance, in the amounts specified and in the form hereinafter provided for:

11.2.1 Liability Insurance. Tenant shall obtain and keep in force during the Term of this Amended and Restated Agreement a marine general liability policy of insurance protecting Tenant and the Port, as an additional insured using ISO Form 20 26 11 85 or equivalent, against claims for injury or death to persons or damage to property occurring on or about the Premises in an amount not less than three million dollars (\$3,000,000.00) combined single limit for each occurrence. This insurance must include bodily injury liability, personal

injury liability, property damage liability, broad form property damage liability, contractual liability, and products/completed operations liability and shall include warehousemen's legal liability coverage in an amount of \$250,000. The policy shall not contain any intra-insured exclusions as between insured persons or organizations.

11.2.2 Auto Liability Insurance. Tenant shall obtain and keep in force during the Term of this Amended and Restated Agreement a business automobile policy insuring Tenant and the Port, as an additional insured using ISO Form 20 26 11 85 or equivalent, arising out of any auto, including, owned, non-owned and hired. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than three million dollars (\$3,000,000) per occurrence.

11.2.3 Other Insurance. Tenant shall also obtain and keep in force during the Term of this Amended and Restated Agreement, Stop Gap Employers Liability insurance and, if applicable, longshoremen's and Harbor Workers Act, Jones Act, or Federal Employers Liability Act coverage in the amounts required by law.

11.3 Insurance Policies. Insurance required of Tenant under Sections 11.2 or 11.4 shall be in companies duly licensed to transact business in the State of Washington, and maintaining during the policy term a General Policyholders Rating of 'A-' or better and a financial rating of 'IX' or better, or such other rating as may be required by a lender having a lien on the Premises, as set forth in the most current issue of "Best's Insurance Guide." Tenant shall not do or permit to be done anything which shall invalidate the insurance policies referred to in this Article. Tenant shall cause to be delivered to the Port certified copies of policies of such insurance or certificates evidencing the existence and amounts of such insurance with the insureds and loss payable clauses as required by this Amended and Restated Agreement. No such policy shall be cancelable or subject to non-renewal or modification except after forty five (45) days prior written notice to the Port. Tenant shall at least forty five (45) days prior to the expiration of such policies, furnish the Port with evidence of renewals or "insurance binders" evidencing renewal thereof, or the Port may order such insurance and charge the cost thereof to Tenant, which amount shall be payable by Tenant to the Port upon demand. No insurance required herein shall contain a deductible or self-insured retention in excess of \$50,000 without the prior written consent of the Port.

#### 11.4 Property Insurance.

11.4.1 By Port. The Port shall obtain and keep in force during the Term of this Amended and Restated Agreement a "Special Extended" or "all risk" property insurance insuring loss or damage to the Premises. The policy shall include coverage for any additional costs resulting from debris removal and reasonable amounts of coverage for the enforcement of any ordinance or law regulating the reconstruction or replacement of the Premises including any undamaged sections of the Premises required to be demolished or removed by reason of the enforcement of any Legal Requirement as the result of a covered cause of loss. The amount of such insurance shall be equal to the full replacement cost of the Premises (or the commercially

reasonable and available insurable value thereof if, by reason of the unique nature or age of the improvements involved, such latter amount is less than full replacement cost).

11.4.2 By Tenant. Tenant shall obtain and keep in force during the Term of this Amended and Restated Agreement a “Special Extended” or “all risk” property insurance insuring loss or damage to any property of Tenant used in Tenant’s Operations. The policy shall include coverage for any additional costs resulting from debris removal and reasonable amounts of coverage for the enforcement of any ordinance or law regulating the reconstruction or replacement of the Premises including any undamaged sections of the Premises required to be demolished or removed by reason of the enforcement of any Legal Requirement as the result of a covered cause of loss. The amount of such insurance shall be equal to the full replacement cost of the property (or the commercially reasonable and available insurable value thereof if, by reason of the unique nature or age of the improvements involved, such latter amount is less than full replacement cost). The policy shall also contain an agreed valuation provision in lieu of any coinsurance clause.

11.5 Waiver of Subrogation. Without affecting any other rights or remedies, the Port and Tenant (for themselves and on behalf of anyone claiming through or under them by way of subrogation or otherwise) hereby waives any rights it may have against the other, their officers, agents and employees (whether in contract or in tort) on account of any loss or damage occasioned to the insured party and arising out of or incident to the perils required to be insured against under this Article. Accordingly, both the Port and Tenant shall cause each insurance policy required by this Article to further contain a waiver of subrogation clause. The effect of such release and waiver of the right to recover damages shall not be limited by the amount of insurance carried or required, or by any deductibles applicable thereto.

#### 11.6 Miscellaneous Insurance Provisions.

11.6.1 The limits of insurance required by this Amended and Restated Agreement or as carried by Tenant shall not limit the liability of Tenant nor relieve Tenant of any obligation hereunder. All insurance to be carried by Tenant shall be primary to and not contributory with any similar insurance carried by the Port, whose insurance shall be considered excess insurance only. If at any time during the Term, Tenant shall have in full force and effect a blanket policy of commercial general liability and umbrella liability insurance covering the Premises and other premises and/or properties of Tenant, such insurance shall satisfy the requirements hereof, provided said policy contains a specific endorsement providing a minimum amount of coverage applicable to the Premises equal to or greater than the amount required above.

11.6.2 The amounts and types of insurance specified in this Amended and Restated Agreement shall be subject to periodic adjustment to reflect changes in insuring practices for similar properties in the same geographic area and changes in insurance products.

## ARTICLE 12: OPERATING EXPENSES; UTILITIES

12.1 Operating Expenses; Responsibility for Operations and Maintenance. Continuing after the Restatement Date through the Term of this Amended and Restated Agreement, Tenant shall pay directly to all third parties the total of all the costs and expenses incurred with respect to the operation and maintenance of the Premises and the services provided for the benefit of the Tenant (the "Operating Expenses"), it being understood and agreed that the Port shall not be required to furnish any services and/or utilities of any nature to the Premises during the Term of this Amended and Restated Agreement, Tenant hereby assuming full and sole responsibility for the supply and payment for all services, operational costs and utilities.

### 12.2 Utilities.

12.2.1 *Telephone.* Tenant shall, at its sole cost and expense, arrange for the furnishing of all phone service (including public pay phones) necessary for the operation of the Premises, and Tenant covenants and agrees to pay all charges therefor directly, to the applicable public utility or governmental authority furnishing such service to the Premises, the amounts due for such services.

12.2.2 *Electrical, Natural Gas, Water, Sewer and Others Utilities.* Tenant covenants and agrees to pay all charges for all electrical, natural gas, water, sewer, surface water management and other utility services or charges necessary for the operation of the Premises as either:

12.2.2.1 Indicated by separate meter(s) measuring Tenant's consumption thereof or,

12.2.2.2 Determined by the Port on a pro rata basis in the event that the Premises or any portion thereof is part of a building or any larger premises to which any of these utilities services are furnished on a consolidated or joint basis. Tenant's pro rata share of any such services may be computed by the Port on any reasonable basis, and separate metering or other exact segregation of cost shall not be required.

12.2.3 *Interruption.* With respect to any utility service provided to the Premises as a part of a building or any larger premises of which the Premises are a part, the Port shall have the right to shut down electrical or other utility services to the Premises when necessitated by safety, repairs, alterations, connections, upgrades, relocations, reconnections, or for any other reason, with respect to any utility system for which the Port has responsibility pursuant to Section 13.2 (singularly or collectively, "Utility Work"), regardless of whether the need for such Utility Work arises in respect of the Premises, any other part of the building or larger premises. Whenever possible, the Port shall give Tenant no less than two (2) days prior notice for such utility shutdown. The Port shall not be liable to Tenant for any losses, including loss of income or business interruption, resulting from any interruptions or failure in the supply of any utility to the Premises, except when such losses result from the Port's gross negligence.

12.3 Energy Conservation. The Port shall have the right to institute such reasonable policies, programs and measures as may be necessary or desirable, in the Port's discretion, for the conservation and/or preservation of energy or energy related services, or as may be required to comply with any applicable codes, rules and regulations, whether mandatory or voluntary.

12.4 Port Not Responsible. The Port shall not be required to furnish any services or utilities of any nature to the Premises during the term of this Amended and Restated Agreement, Tenant hereby assuming full and sole responsibility for the supply of and payment for all utilities and services. Furthermore, the Port shall not be liable in any way to Tenant for any failure or defect in the supply or character of electrical energy or water and sewer service furnished to the Premises by reason of any requirement, act or omission of the public utility providing such service or for any other reason.

### ARTICLE 13: REPAIR AND MAINTENANCE; COMPLIANCE WITH LAWS

#### 13.1 Tenant's Duty to Repair and Maintain.

13.1.1 Terminal 91 Lease Area. Tenant shall, at its sole cost and expenses, keep the Terminal 91 Lease Area, together with the cruise terminal building and all Alterations, equipment and installations therein and the appurtenances thereto, in good order, maintenance and repair. Except to the extent otherwise specifically provided, Tenant shall undertake all maintenance and make all repairs and replacements, ordinary, as well as extraordinary, foreseen and unforeseen, which may be necessary or required so that at all times the Terminal 91 Lease Area, the cruise terminal building and all Alterations, equipment, installations and appurtenances shall be in thorough good order, condition and repair including but not limited to: (i) Port owned gangways, passageways, and mobile ramps (whether passenger or crew), whether located strictly within the Terminal 91 Lease Area or without (ii) all security equipment (specifically including the acquisition and maintenance or upgrade required under any security law or plan), (iii) all furniture, fixtures and equipment, and (iv) the fire suppression system. Tenant shall conduct all maintenance in a manner consistent with Port of Seattle maintenance procedures and schedules for all mechanical, plumbing, electrical and other systems.

Provided, Tenant's obligation to make all necessary repairs shall not extend to: (i) the piling supporting the piers/wharves, (ii) the roof, foundations, exterior walls or structural elements of the building or pier of which the Terminal 91 Cruise Facility is a part, (iii) any electrical, natural gas, water or sewer utility systems outside the point at which they are separately metered/submetered for or otherwise exclusively serve the Premises, and (iv) the initial configuration of gangways, passageways and mobile ramps (whether passenger or crew) associated with any new cruise line not currently calling at the Port of Seattle (but not any new cruise vessel associated with any cruise line currently calling at the Port of Seattle or any such line's successor) except to the extent that any of the repairs described in this provision may be required as a result of damage caused by negligence of Tenant or its agents, employees, sublessees, invitees or licensees.

#### 13.1.2 Terminal 91 Preferential Use Area, Parking Area and Access Area.

13.1.2.1 For the Terminal 91 Preferential Use Area, Terminal 91 Parking Area or Terminal 91 Access Area, Tenant shall, at its sole cost and expenses, keep: (i) any equipment utilized by Tenant in connection with cruise Ship Activities, (ii) all marking/stripping of pavement associated with cruise Ship Activities, (iii) any traffic control devices and/or signs associated with cruise Ship Activities, (iv) any fence surrounding Parking Area, and (v) any toll collection kiosks or plazas (whether temporary or permanent) and all toll collection equipment associated with cruise Ship Activities, in good order, maintenance and repair. Except to the extent otherwise specifically provided, Tenant shall undertake all maintenance and make all repairs and replacements, ordinary, as well as extraordinary, foreseen and unforeseen, which may be necessary or required so that these items shall be in thorough good order, condition and repair.

13.1.2.2 Tenant shall also be responsible for keeping the Terminal 91 Preferential Use Area, Terminal 91 Parking Area and Terminal 91 Access Areas clean and in good order during periods of use and shall return the same following any period of use authorized under this Amended and Restated Agreement in substantially the same condition in which received, normal wear and tear excepted.

13.1.2.3 Except as specifically provided in this Section 13.1.2, Tenant shall have no other obligation of repair or maintenance, except to the extent required as a result of either Tenant's failure to adhere to the obligations set forth in this Section 13.1.2 or damage caused by negligence of Tenant or its agents, employees, sublessees, invitees or licensees.

## 13.2 Port's Duty to Repair and Maintain.

13.2.1 Terminal 91 Lease Area. The Port shall be responsible for any and all repairs and maintenance to: (i) the piling supporting the piers/wharves, (ii) the roof, foundations, exterior walls or structural elements of the building or pier of which the Terminal 91 Cruise Facility is a part, (iii) any electrical, natural gas, water or sewer utility systems (unless the responsibility of the utility provider supplying the applicable utility) to the point at which they are separately metered/submetered for or otherwise exclusively serve the Premises, (iv) the initial configuration of gangways, passageways and mobile ramps (whether passenger or crew) associated with any new cruise line not currently calling at the Port of Seattle (but not any new cruise vessel associated with any cruise line currently calling at the Port of Seattle or any such line's successor), and (v) any off-season relocation of the gangways, passageways and mobile ramps necessary to accommodate the fishing fleet's use of the Terminal 91 Lease Area and/or Terminal 91 Preferential Use Area. In the event that any repairs to any of these items may be required as a result of damage caused by negligence of Tenant or its agents, employees, sublessees, invitees, or licensees, those repairs shall be at the sole cost and expense of Tenant. Otherwise, any repair and maintenance of these items shall be at the Port's sole cost and expense. The Port shall perform any such repair or maintenance work called to its attention by Tenant within a reasonable period of time after receipt of such notice by the Port. There shall be no abatement or reduction of any financial or other obligation of Tenant under this Amended and



Restated Agreement by reason of the Port's making repairs, alterations and/or improvements to the Terminal 91 Cruise Facility.

13.2.2 Terminal 91 Preferential Use Area, Parking Area and Access Area. Except to the extent provided in Section 13.1.2, the Port shall be responsible for any and all repairs and maintenance to the Terminal 91 Preferential Use Area, the Terminal 91 Parking Area and the Terminal 91 Access Area, including but not limited to: (i) the piling supporting the piers/wharves, (ii) the repair or replacement of fender piling, (iii) the fender rafts, including the annual removal and reinstallation of floats for purposes of annual maintenance, (iv) the dock safety ladders, (v) the perimeter fencing, (vi) the maintenance and replacement of the asphalt surface of the Terminal 91 Preferential Use Area, Terminal 91 Parking Area and/or Terminal 91 Access Area, and (vii) any electrical, natural gas, water or sewer utility systems (unless the responsibility of the utility provider supplying the applicable utility) to the point at which they are separately metered/submetered for or otherwise exclusively serve the Premises. In the event that any repairs to any of these items may be required as a result of damage caused by negligence of Tenant or its agents, employees, sublessees, invitees, or licensees, those repairs shall be at the sole cost and expense of Tenant. Otherwise, any repair and maintenance of these items shall be at the Port's sole cost and expense. The Port shall perform any such repair or maintenance work called to its attention by Tenant within a reasonable period of time after receipt of such notice by the Port. There shall be no abatement or reduction of any financial or other obligation of Tenant under this Amended and Restated Agreement by reason of the Port's making repairs, alterations and/or improvements to the Terminal 91 Cruise Facility.

13.3 Continuing Compliance. Throughout the Term of this Amended and Restated Agreement, Tenant shall, at its own cost and expense, promptly and diligently observe and comply with:

13.3.1 All Legal Requirements and the requirements of any fire insurance rating organization and all insurance companies writing policies covering the Premises or any part or parts thereof, whether or not such compliances herewith shall require repairs, changes or alterations in and about the Premises, or repairs, changes or alterations incident to or as the result of any use or occupation of the Premises or interfere with the use and enjoyment of the Premises or any part thereof, and whether or not the same now are in force or at any time in the future may be passed, enacted, or directed;

13.3.2 Procure, maintain and comply with all permits, licenses, franchises and other authorizations required for any use of the Premises or any part thereof then being made and for proper erection, installation, operation and maintenance of any improvements or any part thereof; and

13.3.3 Comply with any instruments of record at the time in force affecting the Premises or any part thereof.

Tenant shall defend (with counsel approved by the Port), fully indemnify, and hold entirely free and harmless the Port from any action, suit or proceeding and all costs, expenses, claims, fines,

penalties, and damages that may in any manner arise out of or be imposed because of the failure of Tenant to comply with this covenant. Tenant's obligations of indemnity under this Section shall survive the expiration or earlier termination of this Amended and Restated Agreement.

#### 13.4 The Allowances.

13.4.1 *Maintenance Allowance.* The Port shall provide Tenant with an annual allowance (the "Maintenance Allowance") valued at seventy five thousand dollars and no cents (\$75,000.00) per calendar year after 2015 for Tenant's use in meeting the repair and replacement obligations imposed upon it pursuant to Section 13.1. The Maintenance Allowance, however, is not a cash allowance. Instead, it represents an agreement by the Port to provide, through the Port's Seaport Maintenance Department, up to one hundred thousand dollars worth of repair and maintenance services not otherwise within the scope of the Port's responsibilities under Section 13.2. In the event that Tenant seeks to access the Maintenance Allowance, it shall provide a description of the services that it seeks to have completed and arrange for the Port, through its Seaport Maintenance Department, to provide such services. Those services will be charged against the Maintenance Allowance for the year in which the services are actually provided at the same rate, and in the same manner, that such services would otherwise be charged against any other department/organization with the Port's Seaport Division. Any portion of the Maintenance Allowance not used within a calendar year shall be forfeited. In the event that the cost for the services requested by Tenant exceeds the amount of the Maintenance Allowance, Tenant shall promptly (and in no event later than the remittance of the next payment of Rent) reimburse the Port for such amounts following receipt of an invoice from the Port detailing such amounts.

13.4.2 *Capital Allowance.* The Port shall provide Tenant with an annual allowance (the "Capital Allowance") valued at two hundred thousand dollars and no cents (\$200,000.00) per calendar year after 2015 for the repair or replacement of any furniture, fixtures, equipment or other capital items in, on or about the Terminal 91 Cruise Facility. Either party may perform work under the Capital Allowance. As such, whether the Capital Allowance is, in whole or in part, a cash allowance will depend on the party identified to do the particular work to be performed under the Capital Allowance. The parties shall consult with one another regarding potential projects towards which the Capital Allowance will be applied; provided, however, the final decisions regarding how the Capital Allowance will be applied and who will undertake the work will be made by the Port. In the event that the Port performs any work, the amount chargeable against the Capital Allowance will be determined from the costs properly charged against the project established by the Port for such work under the Port's system of accounting. Tenant specifically acknowledges that the Port may use the Capital Allowance for the replacement of the fendering and rafts at the Terminal 91 Cruise Facility in fulfilling its responsibilities under Section 13.2. In seeking any payment under the Capital Allowance for any work performed by Tenant, Tenant shall submit to the Port a copy of the invoice for the repair or replacement of such furniture, fixtures, equipment or other capital items together with such other reasonable documentation required by the Port. The Port shall, within thirty (30) days of receipt of such documentation and verification of the eligibility of such expenditure for reimbursement under the Replacement Allowance, pay to Tenant the amount of the invoice, not to exceed (in aggregate with all previously requested reimbursements) the total dollar amount of the

Allowance. Solely as an accommodation to Tenant, the Port agrees to issue two party checks made payable to Tenant and the supplier/provider retained by or contracted to Tenant for the purposes of facilitating payment by Tenant to such supplier/provider; *provided, however*, nothing in the Port's agreement to issue a two party check shall create or support any liability or responsibility by the Port to such supplier/provider. Any portion of the Capital Allowance not used within a calendar year will roll forward for the remainder of the Term of this Amended and Restated Agreement.

13.4.3 Per Passenger Allowance. Continuing after the Restatement Date, the Port will provide Tenant with an annual allowance (the "Per Passenger Allowance") as follows:

13.4.3.1 The value of the Per Passenger Allowance will be calculated based on the number of cruise passengers (for which the Passenger fee and/or Bundled Fee are payable and actually paid) over the Extension Period. The Per Passenger Allowance will accrue at a rate of Eight Cents (\$0.08) per passenger up to (and including) five million (5,000,000) and at a rate of Five Cents (\$0.05) per passenger for each passenger more than five million over the Extension Term. The Per Passenger Allowance will be earned and available to Tenant only in arrears and shall not be available in advance or otherwise in expectation of future passengers.

13.4.3.2 The Per Passenger Allowance may be used for the repair or replacement of any furniture, fixtures, equipment or other capital items in, on or about the Terminal 91 Cruise Facility. Either party may perform work under the Per Passenger Allowance. As such, whether the Per Passenger Allowance is, in whole or in part, a cash allowance will depend on the party identified to do the particular work to be performed under the Per Passenger Allowance. The parties shall consult with one another regarding potential projects towards which the Per Passenger Allowance will be applied; *provided, however*, the final decisions regarding how the Per Passenger Allowance will be applied and who will undertake the work will be made by the Port. In the event that the Port performs any work, the amount chargeable against the Per Passenger Allowance will be determined from the costs properly charged against the project established by the Port for such work under the Port's system of accounting.

13.4.3.3 In seeking any payment under the Per Passenger Allowance for any work performed by Tenant, Tenant shall submit to the Port a copy of the invoice for the repair or replacement of such furniture, fixtures, equipment or other capital items together with such other reasonable documentation required by the Port. The Port shall, within thirty (30) days of receipt of such documentation and verification of the eligibility of such expenditure for reimbursement under the Per Passenger Allowance, pay to Tenant the amount of the invoice, not to exceed (in aggregate with all previously requested reimbursements) the then-available total dollar amount of the Per Passenger Allowance. Solely as an accommodation to Tenant, the Port agrees to issue two party checks made payable to Tenant and the supplier/provider retained by or contracted to Tenant for the purposes of facilitating payment by Tenant to such supplier/provider; *provided, however*, nothing in the Port's agreement to issue a two party check shall create or support any liability or responsibility by the Port to such supplier/provider.

13.5 Waste. Tenant will not do or permit or suffer any waste, damages, disfigurement or injury to or upon the Premises or any part thereof.

13.6 Semi-Annual Condition Surveys. Continuing after the Restatement Date, the parties shall conduct an inspection of all the Premises semi-annually, before and after the “cruise season” to again observe and note the condition of, cleanliness of and existing damage to the Premises and to determine repairs and maintenance required to be performed. Responsibility for repairing any problems or defects noted shall be as provided in Sections 13.1 and 13.2 this Amended and Restated Agreement.

#### ARTICLE 14: COMPLIANCE WITH ENVIRONMENTAL LAWS

14.1 Hazardous Substances. Tenant shall not introduce or allow the introduction of any Hazardous Substance in or about the Premises in any manner that could be a detriment to the Premises or in violation of any Environmental Law. In addition, Tenant shall not cause any Hazardous Substances to migrate off the Premises or release any Hazardous Substances into adjacent surface waters, soils, underground waters or air. Tenant shall provide the Port with Tenant’s USEPA Waste Generator Number (if Tenant is required by applicable law or regulations to hold one), and with copies of all Material Safety Data Sheets (MSDS), Generator Annual Dangerous Waste Reports, environmentally related regulatory permits or approvals (including revisions or renewals) and any correspondence Tenant receives from, or provides to, any governmental unit or agency in connection with Tenant’s handling of Hazardous Substances or the presence, or possible presence, of any Hazardous Substance on the Premises.

14.2 Violation of Environmental Law. If Tenant, or the Premises as a result of any action or inaction (other than the failure to Tenant to address the presence of any Hazardous Substance not the responsibility of Tenant under this ARTICLE 14) of Tenant, is in violation of any Environmental Law concerning the presence or use of Hazardous Substances or the handling or storing of hazardous wastes, Tenant shall promptly take such action as is necessary to mitigate and correct the violation. If Tenant does not act in a prudent and prompt manner, the Port reserves the right, but not the obligation, to come onto the Premises, to act in place of the Tenant (Tenant hereby appoints the Port as its agent for such purposes) and to take such action as the Port deems necessary to ensure compliance or to mitigate the violation. If the Port has a reasonable belief that Tenant is in violation of any Environmental Law, or that Tenant’s actions or inactions present a threat of violation or a threat of damage to the Premises, the Port reserves the right to enter onto the Premises and take such corrective or mitigating action as the Port deems necessary. All costs and expenses incurred by the Port in connection with any such actions shall become immediately due and payable by Tenant upon presentation of an invoice therefor.

14.3 Inspection; Test Results. The Port shall have access to the Premises to conduct an annual environmental inspection. In addition, Tenant shall permit the Port access to the Premises at any time upon reasonable notice for the purpose of conducting environmental testing at the Port’s expense. Tenant shall not conduct or permit others to conduct environmental testing on the Premises without first obtaining the Port’s written consent. Tenant shall promptly inform the Port

of the existence of any environmental study, evaluation, investigation or results of any environmental testing conducted on the Premises whenever the same becomes known to Tenant, and Tenant shall provide copies to the Port.

14.4 Removal of Hazardous Substances. Prior to vacation of the Premises, in addition to all other requirements under this Amended and Restated Agreement, Tenant shall remove any Hazardous Substances placed on the Premises during the term of the Agreement (including this Amended and Restated Agreement) or Tenant's possession of the Premises, and shall demonstrate such removal to the Port's satisfaction. This removal and demonstration shall be a condition precedent to the Port's payment of any Security to Tenant upon termination or expiration of this Amended and Restated Agreement.

14.5 Remedies Not Exclusive. No remedy provided herein shall be deemed exclusive. In addition to any remedy provided above, the Port shall be entitled to full reimbursement from Tenant whenever the Port incurs any costs resulting from Tenant's use or management of Hazardous Substances on the Premises, including but not limited to, costs of clean-up or other remedial activities, fines or penalties assessed directly against the Port, injuries to third persons or other properties, and loss of revenues resulting from an inability to re-lease or market the property due to its environmental condition (even if such loss of revenue occurs after the expiration or earlier termination of this Amended and Restated Agreement).

14.6 Environmental Indemnity.

14.6.1 *By Tenant.* In addition to all other indemnities provided in this Amended and Restated Agreement, Tenant agrees to defend, indemnify and hold the Port free and harmless from any and all claims, causes of action, regulatory demands, liabilities, fines, penalties, losses, and expenses, including without limitation cleanup or other remedial costs (and including attorneys' fees, costs and all other reasonable litigation expenses when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation), arising from Tenant's failure to adhere to the requirements of this ARTICLE 14. Tenant's obligations under this Section shall survive the expiration or earlier termination of this Amended and Restated Agreement.

14.6.2 *By Port.* The Port agrees to defend, indemnify and hold Tenant free and harmless from any and all claims, causes of action, regulatory demands, liabilities, fines, penalties, losses, and expenses, including without limitation cleanup or other remedial costs (and including attorneys' fees, costs and all other reasonable litigation expenses when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation), arising from either the Preexisting Condition or the existence or discovery of any other Hazardous Substance either: (i) introduced to the Premises other than during the term of this Agreement (including this Amended and Restated Agreement), (ii) migrating to/from the Premises other than as a result of Tenant's actions, or (iii) released on, about or adjacent to the Premises other than as a result of Tenant's actions. The Port's obligations under this Section shall survive the expiration or earlier termination of this Amended and Restated Agreement.

## ARTICLE 15: DAMAGE OR DESTRUCTION

15.1 Damage Repairable in Four Weeks. Should the Terminal 91 Cruise Facility be damaged by fire or other casualty and if the damage is repairable within four (4) weeks from the date of the occurrence (with the repair work and the preparations therefor to be done during regular working hours on regular work days), the such Premises shall be repaired with due diligence by the Port, and in the meantime the Base Rent shall be abated in the same proportion that the untenable portion of the Premises bears to the whole thereof, for the period from the occurrence of the damage to the completion of the repairs.

15.2 Damage Not Repairable in Four Weeks. Should either the Terminal 91 Cruise Facility be completely destroyed by fire or other casualty, or should either be damaged to such an extent that the damage cannot be repaired within four (4) weeks of the occurrence, the Port shall have the option to terminate this Amended and Restated Agreement as to either the affected Cruise Facility or in its entirety on thirty (30) days' notice, effective as of any date not more than sixty (60) days after the occurrence. In the event that this paragraph shall become applicable, the Port shall advise Tenant within thirty (30) days after the happening of any such damage whether the Port has elected to continue the lease in effect or to terminate it. If the Port shall elect to continue this lease in effect as to the affected Cruise Facility, it shall commence and prosecute with due diligence any work necessary to restore or repair the Premises. If the Port shall fail to notify Tenant of its election within said thirty (30) day period, the Port shall be deemed to have elected to terminate this lease in its entirety, and this Amended and Restated Agreement shall automatically terminate sixty (60) days after the occurrence of the damage. For the period from the occurrence of any damage to the Premises to the date of completion of the repairs to the Premises (or to the date of termination of the lease if the Port shall elect not to restore the Premises), the monthly rent shall be abated in the same proportion as the untenable portion of the Premises bears to the whole thereof.

## ARTICLE 16: SURRENDER AND HOLDING OVER

16.1 Surrender. Tenant shall quit and surrender the Property, together with any remaining improvements or modifications, in good condition and repair, normal wear and tear excepted.

16.2 Holding Over. If the Premises are not surrendered as provided in this Article, Tenant shall indemnify and hold the Port harmless against loss or liability resulting from the delay by Tenant in so surrendering the Premises, including, without limitation, any claims made by any succeeding occupant founded on such delay. Any holding over with the consent of the Port after expiration or earlier termination of this Amended and Restated Agreement shall be construed to be a tenancy from month-to-month upon the same terms and conditions provided in this Amended and Restated Agreement. Any holding over without the consent of the Port after expiration or earlier termination of this Amended and Restated Agreement shall be construed to be tenancy at sufferance upon the same terms and conditions provided in this Amended and Restated Agreement, except that Base Rent shall be one hundred fifty percent (150%) of that

which it was immediately prior to expiration or earlier termination of this Amended and Restated Agreement.

16.3 Survival. Tenant's obligations under this Article shall survive the expiration or earlier termination of this Amended and Restated Agreement. No modification, termination or surrender to the Port of this Amended and Restated Agreement or surrender of the Property or any part thereof, or of any interest therein by Tenant, shall be valid or effective unless agreed to and accepted in writing by the Port, and no act by any representative or agent of the Port, other than such written agreement and acceptance, shall constitute an acceptance thereof.

#### ARTICLE 17: IMPAIRMENT OF TITLE

17.1 Liens. Tenant will not directly or indirectly create or permit to be created and/or to remain a Lien upon the Premises, and any Alterations, fixtures, improvements or appurtenances thereto except those Liens expressly permitted by this Amended and Restated Agreement. In the event any such Lien(s) have been created by or permitted by Tenant in violation of this provision, Tenant shall immediately discharge as of record, by bond or as otherwise allowed by law, any such Lien(s). Tenant shall also defend (with counsel approved by the Port), fully indemnify, and hold entirely free and harmless the Port from any action, suit or proceeding that may be brought on or for the enforcement of such lien(s).

17.2 Recording. Tenant covenants and agrees with the Port that Tenant shall not record this Amended and Restated Agreement or any memorandum thereof without the Port's prior written consent. In the event that the Port or its lender requires this Amended and Restated Agreement or a memorandum thereof to be recorded in priority to any mortgage, deed of trust or other encumbrance which may now or at any time hereafter affect the Premises in whole or in part, and whether or not any such mortgage, deed of trust or other encumbrance shall affect only the Premises, any part thereof, or shall be a blanket mortgage, deed of trust or encumbrance affecting other premises as well, the Tenant covenants and agrees with the Port that the Tenant shall execute promptly upon request from the Port any certificate, priority agreement or other instrument which may from time to time be requested to give effect thereto and the Tenant hereby irrevocably appoints the Port as agent and attorney for the Tenant with full power and authority to execute and deliver such instruments for and in the name of the Tenant.

#### ARTICLE 18: DEFAULT

18.1 Events of Default. The occurrence of any of the following events shall constitute an "Event of Default" on the part of the Tenant with or without notice from the Port:

18.1.1 The vacating or abandonment of the Premises by Tenant.

18.1.2 The failure by Tenant to make any payment of rent, fees or any other payment required by this Amended and Restated Agreement, when due.

18.1.3 The failure by Tenant to observe or perform any covenant, condition, or agreement to be observed or performed by Tenant in this Amended and Restated Agreement.

18.1.4 The discovery by the Port that any financial or background statement provided to the Port by Tenant, any successor, grantee, or assign was materially false.

18.1.5 The filing by Tenant of a petition in bankruptcy, Tenant being adjudged bankrupt or insolvent by any court, a receiver of the property of Tenant being appointed in any proceeding brought by or against Tenant, Tenant making an assignment for the benefit of creditors, or any proceeding being commenced to foreclose any mortgage or other lien on Tenant's interest in the Premises or on any personal property kept or maintained on the Premises by Tenant.

18.2 Remedies. In addition to, and not in lieu or to the exclusion of, any other remedies provided in this Amended and Restated Agreement or to any other remedies available to the Port at law or in equity:

18.2.1 Whenever any default (other than a default under Section 18.1.5 above, upon which termination of this Amended and Restated Agreement shall, at the Port's option, be effective immediately without further notice) continues unremedied in whole or in part for 30 days after Notice of Default is provided by the Port to Tenant (or for 10 days after Notice of Default in the case of default for failure to pay any rent, fees or other required payment when due), this Amended and Restated Agreement and all of Tenant's rights under it will automatically terminate if the Notice of Default so provides. Upon termination, the Port may reenter the Premises using such force as may be necessary and remove all persons and property from the Premises. The Port will be entitled to recover from Tenant all unpaid Rent, fees or any other payments and damages incurred because of Tenant's default including, but not limited to, the costs of re-letting, including tenant improvements, necessary renovations or repairs, advertising, leasing commissions, and attorney's fees and costs ("Termination Damages"), together with interest on all Termination Damages at the Default Rate, from the date such Termination Damages are incurred by the Port until paid.

18.2.2 In addition to Termination Damages, and notwithstanding termination and reentry, Tenant's liability for all Rent, fees or other charges which, but for termination of this Amended and Restated Agreement, would have become due over the remainder of the Amended and Restated Agreement term ("Future Charges") will not be extinguished and Tenant agrees that the Port will be entitled, upon termination for default, to collect as additional damages, a Rental Deficiency. "Rental Deficiency" means, at the Port's election, either:

18.2.2.1 An amount equal to Future Charges, less the amount of actual rent and fees, if any, which the Port receives during the remainder of the Amended and Restated Agreement term from others to whom the Premises may be rented, in which case such Rental Deficiency will be computed and payable at the Port's option either:



18.2.2.1.1 In an accelerated lump-sum payment discounted to present worth, or

18.2.2.1.2 In monthly installments, in advance, on the first day of each calendar month following termination of this Amended and Restated Agreement and continuing until the date on which the Amended and Restated Agreement term would have expired but for such termination, and any suit or action brought to collect any portion of Rental Deficiency attributable to any particular month or months, shall not in any manner prejudice the Port's right to collect any portion of Rental Deficiency by a similar proceeding; or

18.2.2.2 An amount equal to Future Charges less the aggregate fair rental value of the Premises over the remaining Amended and Restated Agreement term, reduced to present worth. In this case, the Rental Deficiency must be paid to the Port in one lump sum, on demand, and will bear interest at the Default Rate until paid. For purposes of this subsection, "present worth" is computed by applying a discount rate equal to one percentage point above the discount rate then in effect at the Federal Reserve Bank in, or closest to, Seattle, Washington.

18.2.3 If this Amended and Restated Agreement is terminated for default as provided in this Amended and Restated Agreement, the Port shall use reasonable efforts to re-let the Premises in whole or in part, alone or together with other premises, for such term or terms (which may be greater or less than the period which otherwise would have constituted the balance of the Amended and Restated Agreement term), for such use or uses and, otherwise on such terms and conditions as the Port, in its sole discretion, may determine, but the Port will not be liable for, nor will Tenant's obligations under this Amended and Restated Agreement be diminished by reason for any failure by the Port to re-let the Premises or any failures by the Port to collect any rent due upon such re-letting.

18.2.4 If upon any reentry permitted under this Amended and Restated Agreement, there remains any personal property upon the Premises, the Port, in its sole discretion, may remove and store the personal property for the account and at the expense of Tenant. In the event the Port chooses to remove and store such property, it shall take reasonable steps to notify Tenant of the Port's action. All risks associated with removal and storage shall be on Tenant. Tenant shall reimburse the Port for all expenses incurred in connection with removal and storage as a condition to regaining possession of the personal property. The Port has the right to sell any property which has been stored for a period of 30 days or more, unless Tenant has tendered reimbursement to the Port for all expenses incurred in removal and storage. The proceeds of sale will be applied first to the costs of sale (including reasonable attorneys' fees), second to the payment of storage charges, and third to the payment of any other amounts which may then be due and owing from Tenant to the Port. The balance of sale proceeds, if any, will then be paid to Tenant.

18.3 Remedies Cumulative. All rights, options and remedies of the Port contained in this Amended and Restated Agreement shall be construed and held to be distinct, separate and cumulative, and no one of them shall be exclusive of the other, and the Port shall have the right

to pursue any one or all of such remedies or any other remedy or relief which may be provided by law or in equity, whether or not stated in this Amended and Restated Agreement.

18.4 No Counterclaim or Setoff. If the Port shall commence any proceeding for non-payment of Rent, fees or of any other payment of any kind to which the Port may be entitled or which the Port may claim under this Amended and Restated Agreement, Tenant will not interpose any counterclaim or setoff of any nature or description in any such proceeding; the parties specifically agreeing the Tenant's covenant to pay Rent, fees or any other payments under this Amended and Restated Agreement are independent of all other covenants and agreements in this Amended and Restated Agreement; *provided, however*, this shall not be construed as a waiver of Tenant's right to assert such a claim in any separate action brought by Tenant.

#### ARTICLE 19: TERMINATION; NEW CRUISE BERTH; EASEMENTS

19.1 Termination. In the event the Port, in its sole discretion, requires the Premises or any substantial part thereof for any reason, then this Amended and Restated Agreement may be terminated by the Port by written notice to Tenant not less than two (2) years prior to the date of termination set forth in the notice. Tenant shall not be entitled to any compensation at termination for the bargain value of the leasehold.

19.2 Condemnation. In the event that any federal, state or local government or agency or instrumentality thereof shall, by condemnation or otherwise, take title, possession or the right to possession of the Premises or any substantial part thereof, the Port may, at its option, terminate this Amended and Restated Agreement as of the date of such taking, and, if Tenant is not in default under any of the provisions of this Amended and Restated Agreement on that date, any Rent prepaid by Tenant shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Tenant.

19.3 Court Decree. In the event that any court having jurisdiction in the matter shall render a decision which has become final and which will prevent the performance by the Port of any of its material obligations under this lease, then either party hereto may terminate this Amended and Restated Agreement by written notice, and all rights and obligations hereunder (with the exception of any undischarged rights and obligations that accrued prior to the effective date of termination) shall thereupon terminate. If Tenant is not in default under any of the provisions of this Amended and Restated Agreement on the effective date of such termination, any Rent prepaid by Tenant shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Tenant.

19.4 Relocation of Cruise Berths Two and Three. In the event that the Port determines, in its sole discretion, that it will relocate the Terminal 91 Cruise Facilities and not lease those two berths directly to one or more cruise lines, then the Port will give Tenant a term sheet describing the terms on which the Port will be willing to lease the Terminal 91 Cruise Facility to Tenant, and Tenant shall have thirty (30) calendar days to accept those terms by signing the term sheet and delivering it (in the manner for notice) to the Port; *provided, however*, such term sheet must provide for minimum compensation in a manner substantially equivalent to that provided

Tenant under Section 4.3. If Tenant wishes to lease the Terminal 91 Cruise Facility but not on the terms contained in the term sheet provided by the Port, Tenant may use the thirty calendar days to negotiate with the Port, and if the two reach an agreement on terms, Tenant shall sign a term sheet containing those agreed terms and deliver it (in the manner for notice) to the Port by the end of the thirty-day period. If the Port does not receive a signed term sheet as provided in this Section within the thirty-day period, the Port may terminate this Amended and Restated Agreement and lease the Terminal 91 Cruise Facility to others on such terms as it may agree. If Tenant delivers the signed term sheet as provided in this Section within the thirty-day period, the Port shall prepare an amendment to this Amended and Restated Agreement incorporating the terms on the term sheet and provide it to Tenant for signature. If Tenant does not sign the amendment within ten (10) business days, Tenant shall be deemed to have rejected the Terminal 91 Cruise Facility and the Port may lease them to others on such terms as it may agree. Exercise of the right set forth in this Section shall be conditioned upon: (a) the Amended and Restated Agreement not having been assigned by the Tenant to any other person or entity, and (b) Tenant not being in default under this Amended and Restated Agreement at any time between when the term sheet is delivered to Tenant and the execution of the amendment to this Amended and Restated Agreement.

19.5 New Cruise Berth. In the event that the Port determines, in its sole discretion, that it will create a fourth cruise berth and not lease that berth directly to a cruise line, then the Port will give Tenant a term sheet describing the terms on which the Port will be willing to lease the fourth cruise berth to Tenant, and Tenant shall have thirty (30) calendar days to accept those terms by signing the term sheet and delivering it (in the manner for notice) to the Port. If Tenant wishes to lease the fourth cruise berth but not on the terms contained in the term sheet provided by the Port, Tenant may use the thirty calendar days to negotiate with the Port, and if the two reach an agreement on terms, Tenant shall sign a term sheet containing those agreed terms and deliver it (in the manner for notice) to the Port by the end of the thirty-day period. If the Port does not receive a signed term sheet as provided in this Section within the thirty-day period, the Port may lease the fourth cruise berth to others on such terms as it may agree. If Tenant delivers the signed term sheet as provided in this Section within the thirty-day period, the Port shall prepare an amendment to this Amended and Restated Agreement incorporating the terms on the term sheet and provide it to Tenant for signature. If Tenant does not sign the amendment within ten (10) business days, Tenant shall be deemed to have rejected the fourth cruise berth and the Port may lease it to others on such terms as it may agree. Exercise of the right to expand to include the fourth cruise berth shall be conditioned upon: (a) the Amended and Restated Agreement not having been assigned by the Tenant to any other person or entity, and (b) Tenant not being in default under this Amended and Restated Agreement at any time between when the term sheet is delivered to Tenant and the execution of the amendment to this Amended and Restated Agreement.

#### 19.6 Easements.

19.6.1 The Parties recognize that the Port facilities are continuously being modified to improve the utilities, services and premises used and provided by the Port. The Port, or its agents, shall have the right to enter the Premises of Tenant, and to cross over, construct,

move, reconstruct, rearrange, alter, maintain, repair and operate the sewer, water, and drainage lines, and the electrical service, fiber and communication service, the roadways and all other services and facilities, all as required by the Port for its own use or benefit. The Port and its authorized utility service provider is hereby granted a continuous easement or easements that the Port believes is necessary within the Property and Premises, without any additional cost to the Port for the purposes expressed hereinabove. *Provided, however,* that the Port by virtue of such use, does not substantially deprive Tenant from its beneficial use or occupancy of the Property or Premises for an unreasonable period of time, not to exceed thirty (30) working days, without consent of Tenant.

19.6.2 In the event that the Port permanently deprives Tenant from such beneficial use or occupancy, then an equitable reimbursement of pre-paid rent or an adjustment in rent for any extension, or in the cost required to modify its Premises to allow the Tenant to operate its business, will be negotiated and paid by the Port to Tenant. In the event that such entry by the Port is temporary in nature, then the Port shall reimburse Tenant for the cost required to modify its Premises for the temporary period that Tenant is inconvenienced by such entry. The Port will not be responsible to Tenant for any reduced efficiency or loss of business occasioned by such entry.

#### ARTICLE 20: NO WAIVER; LANDLORD'S RIGHT TO PERFORM

20.1 Receipt of Monies Following Termination. No receipt of monies by the Port from Tenant after the termination or cancellation of this Amended and Restated Agreement in any lawful manner shall (a) reinstate, continue or extend the Term of this Amended and Restated Agreement; (b) affect any notice theretofore given to Tenant; (c) operate as a waiver of the rights of the Port to enforce the payment of any Rent and fees then due or thereafter falling due; or (d) operate as a waiver of the right of the Port to recover possession of the Premises by proper suit, action, proceeding or remedy; it being agreed that after the service of notice to terminate or cancel this Amended and Restated Agreement, or after the commencement of suit, action or summary proceedings, or any other remedy, or after a final order or judgment for the possession of the Premises, the Port may demand, receive and collect any monies due, or thereafter falling due, without in any manner affecting such notice, proceeding, suit, action, order or judgment; and any and all such monies collected shall be deemed to be payments on account of the use and occupation and/or Tenant's liability hereunder.

20.2 No Waiver of Breach. The failure of the Port to insist in any one or more instances, upon a strict performance of any of the covenants of this Amended and Restated Agreement, or to exercise any option herein contained, shall not be construed as a waiver of or relinquishment for the future of the performance of such covenant, or the right to exercise such option, but the same shall continue and remain in full force and effect. The receipt by the Port of the Rent or fees, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Port of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Port. The consent or approval of the Port to or of any act by Tenant requiring the Port's consent or approval shall not be deemed

to waive or render unnecessary the Port's consent or approval to or of any subsequent similar acts by Tenant.

20.3 No Waiver of Rent. The receipt by the Port of any installment of the Base Rent, Percentage Rent, fees or of any amount shall not be a waiver of any Base Rent, Percentage Rent or any other amount then due.

20.4 Application of Payments. The Port shall have the right to apply any payments made by Tenant to the satisfaction of any debt or obligation of Tenant to the Port, in the Port's sole discretion and regardless of the instructions of Tenant as to application of any such sum, whether such instructions be endorsed upon Tenant's check or otherwise, unless otherwise agreed upon by both parties in writing. The acceptance by the Port of a check or checks drawn by others than Tenant shall in no way affect Tenant's liability hereunder nor shall it be deemed an approval of any assignment of this Amended and Restated Agreement or subletting by Tenant.

20.5 Port's Right to Perform. Upon Tenant's failure to perform any obligation or make any payment required of Tenant hereunder, the Port shall have the right (but not the obligation) to perform such obligation of Tenant on behalf of Tenant and/or to make payment on behalf of Tenant to such parties. Tenant shall reimburse the Port the reasonable cost of the Port's performing such obligation on Tenant's behalf, including reimbursement of any amounts that may be expended by the Port, plus interest at the Default Rate.

## ARTICLE 21: ASSIGNMENT AND SUBLETTING

21.1 Prohibition. Tenant shall not, in whole or in part, assign, sublet, license or permit occupancy by any party other than Tenant of all or any part of the Premises, without the prior written consent of the Port in each instance. Tenant shall at the time the Tenant requests the consent of the Port, deliver to the Port such information in writing as the Port may reasonably require respecting the proposed assignee, subtenant or licensee including, without limitation, the name, address, nature of business, ownership, financial responsibility and standing of such proposed assignee, subtenant or licensee. Within twenty (20) business days after receipt of all required information, the Port shall, in its sole discretion, elect one of the following: (a) to consent to such proposed assignment, sublease or license or (b) to refuse such consent.

21.1.1 As a condition for the Port's consent to any assignment, encumbrance or sublease, the Port may require that the assignee, sublessee or licensee remit directly to the Port on a monthly basis, all monies due to Tenant by said assignee, sublessee or licensee (except with respect to excess rentals otherwise due Tenant pursuant to Section 21.2). In addition, a condition to the Port's consent to any assignment, sublease or license of this Amended and Restated Agreement or the Premises shall be the delivery to the Port of a true copy of the fully executed instrument of assignment, sublease or license and an agreement executed by the assignee, sublessee or licensee in form and substance satisfactory to the Port and expressly enforceable by the Port, whereby the assignee, sublessee or licensee assumes and agrees to be bound by the

terms and provisions of this Amended and Restated Agreement and perform all the obligations of Tenant hereunder.

21.1.2 In the event of any assignment, Tenant and each respective assignor, waives notice of default by the tenant in possession in the payment and performance of the Rent, covenants and conditions of this Amended and Restated Agreement and consents that the Port may in each and every instance deal with the tenant in possession, grant extensions of time, waive performance of any of the terms, covenants and conditions of this Amended and Restated Agreement and modify the same, and in general deal with the tenant then in possession without notice to or consent of any assignor, including Tenant; and any and all extensions of time, indulgences, dealings, modifications or waivers shall be deemed to be made with the consent of Tenant and of each respective assignor.

21.1.3 Tenant agrees that any sublease or license will contain a provision in substance that if there be any termination whatsoever of this Amended and Restated Agreement then the subtenant or licensee, at the request of the Port, will attorn to the Port and the sublessee or licensee, if the Port so requests, shall continue in effect with the Port, but the Port shall be bound to the subtenant or licensee in such circumstances only by privity of estate. Nothing herein shall be deemed to require the Port to accept such attornment.

21.1.4 No assignment, subletting or license by Tenant shall relieve Tenant of any obligation under this Amended and Restated Agreement, including Tenant's obligation to pay Base Rent, fees or other amount due hereunder. Any purported assignment, subletting or license contrary to the provisions hereof without consent shall be void. The consent by the Port to any assignment or subletting shall not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting.

21.1.5 Tenant shall reimburse the Port in the sum of Five Hundred Dollars (\$500.00) plus any reasonable professionals' fees and expenses incurred by the Port in connection with any request by Tenant for consent to an assignment, subletting or license.

21.2 Excess Rental. If in connection with any assignment, sublease or license, Tenant receives rent or other monetary consideration, either initially or over the term of the assignment or sublease, in excess of the Rent called for hereunder, or in case of the sublease of a portion of the Premises, in excess of such Rent fairly allocable to such portion, after appropriate adjustments to assure that all other payments called for hereunder and out-of-pocket expenditures, operating costs or concessions incurred by Tenant in connection with such assignment, sublease or license, are appropriately taken into account, Tenant shall pay to the Port fifty percent (50%) of the excess of each such payment of rent or other consideration received by Tenant after its receipt.

21.3 Scope. The prohibition against assigning or subletting contained in this Article shall be construed to include a prohibition against any assignment or subletting by operation of law. Furthermore, for purposes of this Article, any sale, transfer or other disposition in the aggregate of fifty percent (50%) or more of the equity ownership in Tenant (i.e. stock with

respect to tenant corporation, partnership interests with respect to a tenant partnership, etc.) shall be deemed an assignment. If this Amended and Restated Agreement be assigned, or if the underlying beneficial interest of Tenant is transferred, or if the Premises or any part thereof be sublet or occupied by anybody other than Tenant, the Port may collect rent from the assignee, subtenant or occupant and apply the net amount collected to the Rent herein reserved and apportion any excess rent so collected in accordance with the terms of Section 21.2, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of this covenant, or the acceptance of the assignee, subtenant or occupant as tenant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained. No assignment or subletting shall affect the continuing primary liability of Tenant (which, following assignment, shall be joint and several with the assignee), and Tenant shall not be released from performing any of the terms, covenants and conditions of this Amended and Restated Agreement.

## ARTICLE 22: MISCELLANEOUS

22.1 Notices. All notices required to be given hereunder shall be in writing and shall be delivered personally, by certified or registered mail, return receipt requested, by facsimile or by recognized overnight courier to the appropriate address indicated in ARTICLE 1 hereof or at such other place or places as either the Port or Tenant may, from time to time, respectively, designate in a written notice given to the other. Notices shall be deemed delivered (i) when personally delivered; (ii) on the third day after mailing when sent by certified or registered mail and the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing; (iii) on the date transmitted by facsimile, if the facsimile is confirmed received; or (iv) on the first business day after deposit with a recognized overnight courier if deposited in time to permit overnight delivery by such courier as determined by its posted cutoff times for receipt of items for overnight delivery to the recipient.

22.2 Promotion of Port Commerce. Tenant agrees that throughout the term of this Amended and Restated Agreement it will, insofar as practicable, promote and aid the movement of passengers and freight through facilities within the territorial limits of the Port. Tenant further agrees that all incoming shipments of commodities that it may be able to control or direct shall be made through facilities within the territorial limits of the Port if there will be no resulting cost or time disadvantage to Tenant.

22.3 Labor Disputes. Tenant agrees to use its best efforts to avoid disruption to the Port, its tenants or members of the public, arising from labor disputes involving Tenant, and in the event of a strike, picketing, demonstration or other labor difficulty involving Tenant, to use its good offices, including the utilization of available legal remedies, to minimize and/or eliminate any disruption to the Port, its tenants or members of the public, arising from such strike, picketing, demonstration or other labor difficulty.

22.4 Port Management Agreement. As respects any portion of this Amended and Restated Agreement that pertains to Washington State-owned aquatic lands under the Port's management, this Amended and Restated Agreement is specifically subject to the terms and

conditions of the Port Management Agreement dated November 1, 1997 between the Washington State Department of Natural Resources and the Port of Seattle, which Port Management Agreement is hereby incorporated by this reference.

22.5 Non-Discrimination.

22.5.1 Services. Tenant shall not discriminate against any person or persons because of race, sex, age, creed, color, physical disability, HIV infection, veteran's status, marital status, sexual orientation, national origin or any other basis made unlawful (whether on a national, state or local level) during the Term of this Amended and Restated Agreement in furnishing, or by refusing to furnish, to any person in Tenant's Operations.

22.5.2 Employment. Tenant shall conduct its business in a manner that assures fair, equal and nondiscriminatory treatment of all full or part-time employees. Tenant shall not discriminate against any full- or part-time employee on the basis of race, sex, age, creed, color, physical disability, HIV infection, veteran's status, marital status, sexual orientation, national origin or any other basis made unlawful (whether on a national, state or local level) during the term of this Amended and Restated Agreement. Tenant shall actively seek to hire and maintain a diverse work force.

22.6 Successors Bound. This Amended and Restated Agreement and each of its covenants and conditions shall be binding upon and shall inure to the benefit of the parties hereto and their respective assignees, subject to the provisions hereof. Whenever in this Amended and Restated Agreement a reference is made to the Port, such reference shall be deemed to refer to the person in whom the interest of the Port shall be vested, and the Port shall have no obligation hereunder as to any claim arising after the transfer of its interest in the Premises. Any successor or assignee of the Tenant who accepts an assignment of the benefit of this Amended and Restated Agreement and enters into possession or enjoyment hereunder shall thereby assume and agree to perform and be bound by the covenants and conditions thereof. Nothing herein contained shall be deemed in any manner to give a right of assignment to Tenant without the prior written consent of the Port and otherwise in compliance with ARTICLE 21 hereof.

22.7 Access to Premises. The Port shall have the right to show the Premises at all reasonable times to any prospective purchasers, tenants or mortgagees of the same, and may at any time enter upon the Premises, or any part thereof, for the purpose of ascertaining the condition of the Premises or whether Tenant is observing and performing the obligations assumed by it under this Amended and Restated Agreement, all without hindrance or molestation from the Tenant. The Port shall also have the right to enter upon the Premises for the purpose of making any necessary repairs and performing any work that may be necessary by reason of Tenant's failure to make any such repairs or perform any such work. The above-mentioned rights of entry shall be exercisable upon request made on reasonable advance notice to Tenant (except that no notice shall be required in the event of an emergency) or an authorized employee of Tenant at the Premises, which notice may be given orally.

22.8 Time. Time is of the essence of each of Tenant's obligations hereunder.



22.9 Consent. Whenever the Port's prior consent or approval is required by this Amended and Restated Agreement, the same shall not be unreasonably withheld but may, unless otherwise specifically provided by this Amended and Restated Agreement, be granted or denied in the Port's sole and absolute discretion.

22.10 Attorneys' Fees. In the event either party requires the services of an attorney in connection with enforcing the terms of this Amended and Restated Agreement or in the event suit is brought for the recovery of any Rent or fees due under this Amended and Restated Agreement or the breach of any covenant or condition of this Amended and Restated Agreement, or for the restitution of the Premises to the Port and/or eviction of Tenant during the Term of this Amended and Restated Agreement, or after the expiration thereof, the prevailing party will be entitled to a reasonable sum for attorneys' fees, consultants' fees, witness fees and other costs, both at trial and on appeal.

22.11 Captions and Article Numbers. The captions, article and section numbers and table of contents appearing in this Amended and Restated Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles of this Amended and Restated Agreement nor in any way affect this Amended and Restated Agreement.

22.12 Severability. If any term, covenant, condition or provision of this Amended and Restated Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Amended and Restated Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

22.13 Applicable Law; Waiver of Trial by Jury. This Amended and Restated Agreement, and, the rights and obligations of the parties hereto, shall be construed and enforced in accordance with the laws of the State of Washington. In any action on or related to the terms of this Amended and Restated Agreement, the parties (for themselves and their successors and assigns) hereby waive any right to trial by jury and expressly consent to trial of any such action before the court.

22.14 Submission of Agreement. The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of or option for leasing the Premises. This document shall become effective and binding only upon execution and delivery hereof by the Port and Tenant. No act or omission of any officer, employee or agent of the Port or Tenant shall alter, change or modify any of the provisions hereof.

22.15 Entire Agreement; Modification. This Amended and Restated Agreement, including Article 23 below, amends and restates the parties' obligations regarding the Premises under the Agreement and sets forth all covenants, promises, agreements, conditions and understandings between the Port and Tenant concerning the Premises. There are no covenants,

promises, agreements, conditions or understandings, either oral or written, between the Port and Tenant other than as are herein set forth. No subsequent alteration, amendment, change or addition to the Amended and Restated Agreement shall be binding upon the Port or Tenant unless reduced to writing and signed by the Port and Tenant.

22.16 Relationship of the Port and Tenant. Nothing contained herein shall be deemed or construed as creating the relationship of principal and agent, partnership, or joint venture partners, and no provision contained in this Amended and Restated Agreement nor any acts of Tenant and the Port shall be deemed to create any relationship other than that of Tenant and the Port.

22.17 Exhibits. Exhibits A, B, and C are attached to this Amended and Restated Agreement after the signatures and by this reference incorporated herein.

#### ARTICLE 23: ADDITIONAL PROVISIONS

23.1 Conditions Precedent. As conditions precedent to the effectiveness of this Amended and Restated Agreement: (i) the Port shall execute a lease or other similar agreement with Norwegian Cruise Line Holdings Ltd. (or its affiliate) under which Norwegian Cruise Line Holdings will assume the management of the Pier 66 Cruise Facility and assume a responsibility to substantially redevelop the Pier 66 Cruise Facility (the "NCLH Lease Agreement"), and (ii) Tenant shall execute an agreement with Norwegian Cruise Line Holdings Ltd. (or its affiliate) for the management of the Pier 66 Cruise Facility for the 2016 cruise season (the "NCLH Management Agreement"). The parties shall each confirm in writing to the other that it has executed its respective agreement with Norwegian Cruise Line Holdings and that such agreement remains in effect as of the Restatement Date. If either of the above conditions precedent is not satisfied on or before the Restatement Date, this Amended and Restated Agreement shall be of no effect and the Agreement shall continue to be effective as if this Amended and Restated Agreement were never executed.

23.2 Termination of the NCLH Lease Agreement. Termination of the NCLH Lease Agreement. If Norwegian Cruise Line Holdings Ltd. (or its affiliate) fails to satisfy the contingency contained in Section 6.7 of the NCLH Lease Agreement on or prior to May 1, 2016, (i) Norwegian Cruise Line Holdings shall (unless otherwise agreed by Norwegian Cruise Line Holdings, the Port and Tenant) remain responsible for the management of the Bell Street Cruise Terminal for the 2016 Cruise Season; and (ii) if the NCLH Lease Agreement terminates as a result of such failure, this Amended and Restated Agreement shall automatically terminate and be of no effect on the same date the NCLH Lease Agreement terminates after the 2016 Cruise Season and the Agreement shall, except to the extent Norwegian Cruise Line Holdings was responsible for management of the Bell Street Cruise Terminal for the 2016 Cruise Season, continue to be effective as if this Amended and Restated Agreement were never executed.

23.3 Payment for Early Termination of Pier 66 Rights. In specific consideration of Tenant agreeing to terminate its rights under the Agreement in relation to the Pier 66 Cruise

Facility as of the Restatement Date, the Port agrees to pay to, or cause to be paid to, Tenant the sum of one million dollars and no cents (\$1,000,000.00) no later than October 31, 2016.

#### 23.4 Current Puget Soundkeeper Litigation.

23.4.1 The Port and Tenant acknowledge that they are currently involved in litigation with the Puget Soundkeeper Alliance (“PSA”) related to the Pier 66 Cruise Facility (Puget Soundkeeper Alliance v. Cruise Terminals of America, 2:14-cv-00476-JCC U.S. District Court for Western Washington) (“PSA Litigation”). The Port and Tenant each deny that they are liable for the claims made by PSA in the PSA Litigation. Without in any manner suggesting that either party may be liable to anyone (including each other) for any claims in connection with the PSA Litigation, the Port and Tenant expressly agree that nothing in this this Amended and Restated Agreement is intended to address or allocate any legal or financial responsibility between the parties as to any liability arising from the PSA Litigation (including liability arising from settlement of the PSA Litigation). The terms of the Agreement will remain applicable and binding on the Tenant and the Port for the purposes of the PSA litigation. The Port and Tenant each agree that, as between them, their respective liabilities, if any, regarding the PSA Litigation shall be determined by reference to the Agreement and existing law and not to this Agreement. The Tenant and the Port affirmatively agree not to use in any manner this Amended and Restated Agreement (but may use the Agreement, as amended through the Second Amendment) or the NCLH Lease Agreement as evidence in the PSA litigation for purposes of attempting to impose or allocate any legal and financial responsibility arising from the PSA litigation to the Tenant, the Port and NCHL.

23.4.2 Each of the Port and Tenant acknowledge that the operation of the Pier 66 Cruise Facility prior to the Restatement Date is subject to the terms and conditions of the Agreement and except as specifically contemplated herein neither the Port nor Tenant waives or extinguishes any rights or obligations under the Agreement with respect to the operation of the Pier 66 Cruise Facility prior to the Restatement Date by entering into this Amended and Restated Agreement; provided, that, notwithstanding anything to the contrary in the Agreement, this Amended and Restated Agreement or otherwise, (i) Tenant shall under no circumstances be responsible for making or in any respect paying for any improvements that may be required to the Pier 66 Cruise Facility after the date hereof, including any improvements required as a result of or arising from the PSA Litigation (“Required Improvements”); (ii) if Tenant is required by court order or otherwise to make any payments in respect of Required Improvements, the Port agrees to promptly reimburse Tenant for such payments; and (iii) Tenant shall have no liability with respect to any Required Improvements.

23.5 Tenant Office Space. The Port recognizes that Tenant’s office space at the Terminal 91 Cruise Facility does not, unlike its office space at the Pier 66 Cruise Facility, have exterior access. Accordingly, the Port agrees that it will, prior to March 31, 2016, install a call button, CCTV camera, and remote-triggered door latch at the visitor/vendor entrance on the northwest side of the Terminal 91 Cruise Facility building. All such improvements will be at the Port’s sole cost and expense. In addition, the Port agrees that it will, on Tenant’s request and at Tenant’s option, make available space in its facilities in the A-500 trailer, Monday through

Friday, 10:00 am through 3:00 pm in the 45 days prior to the commencement of the Cruise Season for reasonable operational needs.


#### ARTICLE 24: SIGNATURES

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Agreement as of the date first above written.

PORT OF SEATTLE

By:   
Its: 

CRUISE TERMINALS OF AMERICA,  
LLC

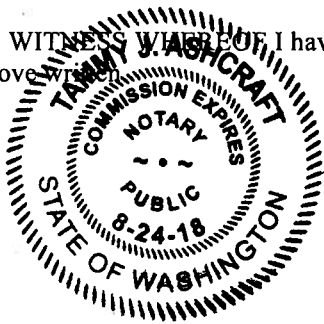
By:   
Its: MANAGER

ARTICLE 25: ACKNOWLEDGMENTS

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this 12 day of August 2015, before me, personally appeared Theodore J. Fick to me known to be the CEO of the PORT OF SEATTLE, a Washington municipal corporation, the corporation that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was duly authorized to execute the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

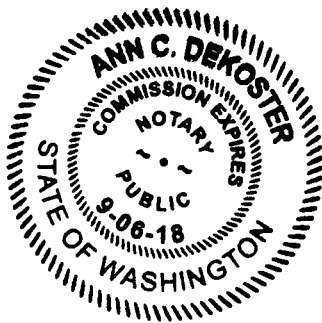


Tammy J. Ashcraft  
Notary Public in and for the State of WA  
Residing at: Des Moines  
My commission expires: 8-24-18

STATE OF Washington )  
 ) ss.  
COUNTY OF King )

On this 11th day of August 2015, before me, personally appeared Daniel Blackmore to me known to be the Manager of CRUISE TERMINALS OF AMERICA, LLC, a Washington limited liability company, the corporation that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was duly authorized to execute the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.



Ann C. Dekoster  
Notary Public in and for the State of Washington  
Residing at: Seattle  
My commission expires: 9/6/2018

## EXHIBIT A

### - Excerpts from Port Travel Policies Adapted for Tenant -

**OFFICIAL TRAVEL DEFINED:** Tenant's officers and employees shall be engaged in official travel on behalf of the Premises when travel is:

1. Connected with calling upon customers or potential customers of the Premises for the purpose of promoting and selling the Premises and its services.
2. Required for the purpose of meeting with, negotiating or consulting with others for the purpose of carrying out Tenant's Operations directly relating to the Premises.
3. Connected with attendance at meetings of organizations in which Tenant holds memberships, or to which Tenant is officially affiliated for purposes of education, research, promotion or joint action, so long as the meeting is attended for a legitimate business purpose directly relating to the Premises and the representative attending on behalf of Tenant is an appropriate representative.

**TRAVEL EXPENSES:** Travel expenses shall be defined to include the following items:

1. Transportation via motor vehicle; private automobiles; public transportation (airline, railroad, busline, or waterborne); taxicab, limousine; rented vehicle; or other appropriate means of transportation.
  - a. Automobile Reimbursement: When private vehicles are used, the CHI representative shall be reimbursed at a rate which the Internal Revenue Service recognizes as meeting the requirement for accounting to employers, except as may be modified by paragraph b. of this subsection.
  - b. Air Class: Authorized air travel arrangements will be at coach class or equivalent, except Tenant may change passenger class to business or first class or equivalent (and have the increased travel expense considered an Allowable Expense) under the following conditions
    - 1) Flights in excess of seven hours of flying time;
    - 2) When it is essential that the Tenant representative conduct business enroute with a customer who is ticketed in a class other than coach;
    - 3) When time is of the essence and no coach class or equivalent rate or space is available or when a special condition or circumstance exists such as a physical condition, security, or carry-on requirements (packages or equipment) which cannot be accommodated by coach class travel. Attempts should be made

to fly at the most economical class whenever possible except as otherwise provide above.

2. Lodging includes hotel, motel or similar accommodations as may be required.

3. Subsistence includes charges for all meals required when traveling. The costs of a meal may include payment for table service, commonly referred to as a gratuity, not to exceed 15% of the price of the meal.

4. Miscellaneous and general expenses connected with traveling may include, but are not limited to, the costs of attending regular meetings of official groups in which Tenant holds memberships or is otherwise officially affiliated, reasonable telephone and telegraph services, registration fees, baggage and luggage handling charges, printed materials, laundry and dry cleaning, parking fees, tolls, stenographic, secretarial and other charges permitted by law. In order for these and other expenses to be considered Allowable Expenses under the Amended and Restated Agreement, the travel must be related to the operation or promotion of the Premises. Receipts may be required for items in this category.

## EXHIBIT B

### - Legal Description of Terminal 91 Lease Area -

A PORTION OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 25 NORTH, RANGE 3 EAST, W.M., ALONG WITH PORTIONS OF LOTS 2,3 AND 4 BLOCK 120 AND LOTS 9 AND 10, BLOCK 121, PLAT OF SEATTLE TIDE LANDS ALONG WITH THAT PORTION OF VACATED PUGET AVENUE V.O.39877 CITY OF SEATTLE, KING COUNTY WASHINGTON. FURTHER DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHWEST CORNER OF LOT 4, BLOCK 120 SEATTLE TIDE LANDS; THENCE NORTH 82°19'41" WEST, ALONG THE SOUTH LINE OF SAID BLOCK 120, A DISTANCE OF 26.99 FEET; THENCE SOUTH 07°40'19" WEST, A DISTANCE OF 26.86 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 89°49'45" WEST, A DISTANCE OF 201.26 FEET;

THENCE NORTH 00°06'23" WEST, A DISTANCE OF 383.52 FEET;

THENCE SOUTH 89°38'01" WEST, A DISTANCE OF 5.30 FEET;

THENCE NORTH 00°09'57" WEST, A DISTANCE OF 106.83 FEET;

THENCE NORTH 89°47'43" EAST, A DISTANCE OF 211.39 FEET;

THENCE SOUTH 00°17'48" EAST, A DISTANCE OF 106.66 FEET;

THENCE SOUTH 89°26'59" WEST, A DISTANCE OF 5.30 FEET;

THENCE SOUTH 00°08'23" EAST, A DISTANCE OF 383.77 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING: 99,748 SQ. FT. 2.29 ACRES MORE OR LESS.

April 14, 2009



## EXHIBIT C

### - Legal Description of Terminal 91 Preferential Use Area -

A PORTION OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 25 NORTH, RANGE 3 EAST, W.M., ALONG WITH PORTIONS OF LOTS 1,2 AND 4 BLOCK 120 AND LOTS 3 THRU 10, BLOCK 121, PLAT OF SEATTLE TIDE LANDS ALONG WITH THAT PORTION OF VACATED PUGET AVENUE V.O.39877 CITY OF SEATTLE, KING COUNTY WASHINGTON. FURTHER DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHWEST CORNER OF LOT 4, BLOCK 120 SEATTLE TIDE LANDS; THENCE NORTH 82°19'41" WEST, ALONG THE SOUTH LINE OF SAID BLOCK 120, A DISTANCE OF 26.99 FEET; THENCE SOUTH 07°40'19" WEST, A DISTANCE OF 26.86 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 00°08'23" WEST, A DISTANCE OF 383.77 FEET;

THENCE NORTH 89°26'59" EAST, A DISTANCE OF 5.30 FEET;

THENCE NORTH 00°17'48" WEST, A DISTANCE OF 106.66 FEET;

THENCE SOUTH 89°47'43" WEST, A DISTANCE OF 79.18 FEET;

THENCE NORTH 00°06'38" WEST, A DISTANCE OF 553.43 FEET;

THENCE NORTH 89°59'40" EAST, A DISTANCE OF 87.59 FEET;

THENCE SOUTH 00°00'20" EAST, A DISTANCE OF 74.28 FEET;

THENCE NORTH 89°45'17" EAST, A DISTANCE OF 66.95 FEET;

THENCE SOUTH 00°10'31" EAST, A DISTANCE OF 1,207.28 FEET;

THENCE NORTH 89°57'19" WEST, A DISTANCE OF 369.03 FEET;

THENCE NORTH 00°10'11" WEST, A DISTANCE OF 1,206.14 FEET;

THENCE NORTH 89°47'28" EAST, A DISTANCE OF 71.65 FEET;

THENCE SOUTH 00°12'42" EAST, A DISTANCE OF 552.66 FEET;

THENCE NORTH 89°51'38" EAST, A DISTANCE OF 9.75 FEET;

THENCE SOUTH 00°09'52" EAST, A DISTANCE OF 33.53 FEET;

THENCE NORTH 89°38'01" EAST, A DISTANCE OF 5.30 FEET;

THENCE SOUTH 00°06'23" EAST, A DISTANCE OF 383.52 FEET;

THENCE NORTH 89°49'45" EAST, A DISTANCE OF 201.26 FEET TO THE  
TRUE POINT OF BEGINNING.

CONTAINING: 283,014 SQ. FT      6.50 ACRES    MORE OR LESS.

April 14, 2009

ORIGINAL

FOURTH AMENDMENT TO  
CRUISE FACILITY LEASE AGREEMENT

THIS FOURTH AMENDMENT TO CRUISE FACILITY LEASE AGREEMENT is made as of 22 October, 20 19, by and between the PORT OF SEATTLE, a Washington municipal corporation ("the Port") and CRUISE TERMINALS OF AMERICA, LLC, a Washington limited liability company ("Tenant").

WHEREAS, the parties entered into a Cruise Facility Lease Agreement dated December 21, 2005, which was subsequently amended by the First Amendment dated May 17, 2006, the Second Amendment dated September 14, 2012, and the Third Amendment entitled Amended and Restated Cruise Facility Lease Agreement dated August 12, 2015 (together the "Agreement"); and

WHEREAS, the parties now wish to further revise the Agreement as previously amended, by extending the term and making further changes as described below.

NOW THEREFORE, in consideration of their mutual promises, the parties hereby agree as follows:

1. Sections 19.4, 19.5, 23.1, 23.2, 23.4 and 23.5 are deleted in their entirety.
2. Section 1.50 is hereby deleted in its entirety and replaced with the following:

"Terminal 91 Preferential Use Area. "Terminal 91 Preferential Use Area" shall mean and refer to that portion of the Port's Pier 91 consisting of approximately twelve (12) acres, having at least one thousand (1,000) lineal feet of moorage along both the east and west sides of Pier 91, together with all improvements now existing or to be constructed on that portion of the parcel. The legal description and precise area of the Terminal 91 Preferential Use Area are set forth on Exhibit C. The Port reserves the right of secondary use of all or any part of the Terminal 91 Preferential Use Area for berthing of vessels operated by entities other than Tenant, for loading and discharging cargoes of such vessels, for transporting cargo, and for cargo storage and operations incidental thereto, provided that such secondary use of the Terminal 91 Preferential Use Area by the Port shall not interfere with Tenant's operations as authorized in this Agreement. In the event of such secondary use by the Port, all applicable charges shall accrue to the benefit of and shall be billed and retained by the Port."

3. Section 1.19 is hereby deleted in its entirety and replaced with the following:

"Hazardous Substance. "Hazardous Substance" shall mean any substance or material defined or designated as a hazardous waste, toxic substance, or other pollutant or contaminant, by any environmentally related local, state or federal law, regulation, ordinance or order (including without limitation any final order of any court of competent jurisdiction), now or hereafter in effect."

4. Section 3.1 is deleted in its entirety and replaced with the following:

"Term. The Term of this Amended and Restated Agreement shall continue from the Restatement Date until ten (10) days after the last scheduled ship in 2021, or November 30, 2021, whichever is earlier. Subject to the Port's sole consent and if Tenant is in compliance with the terms and conditions of this Lease, Tenant has the option to request up to two (2) extensions of the Lease term for two (2) additional one (1) year option terms. In the event Tenant wishes to extend the Lease term, Tenant shall provide the Port with written notice of Tenant's request to exercise such option no more than one year and no less than two hundred forty (240) days prior to the expiration of the Agreement term. No later than sixty (60) days after receipt of Tenant's notice, the Port, in its sole discretion, may provide Tenant with written confirmation of the Port's consent to the extension. The Port's failure to provide Tenant with such written notice within the stated sixty

(60) day period shall constitute the Port's refusal to consent to the extension."

5. The required Security in Section 5.1 is updated from THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) to THREE MILLION FIVE HUNDRED THOUSAND (\$3,500,000), and the following Section 5.1.1 is added:

"Conditions of Security. Security provided under Article 5 shall be subject to any conditions included in any approved security instrument."

6. Section 6.2 is deleted in its entirety and replaced with the following:

"Alterations Related to Security. Notwithstanding anything to the contrary in Section 6.1, Tenant shall, at its sole cost and expense, be obligated to provide any necessary Alterations required to satisfy any security requirement related to cruise vessel Ship Activities and imposed by the United States Federal Investigative Services, Homeland Security Customs and Border Protection CBP, Coast Guard, Transportation Security Administration or any other governmental agency responsible for security, and the Port agrees that it will not unreasonably withhold or condition its consent to such Alterations. In the event that the cost required to satisfy any new security requirement (or integrated group of security requirements imposed as part of a single governmental agency action) is expected to exceed the sum of two hundred thousand dollars (\$200,000.00), the Port and Tenant shall, at Tenant's request, meet to discuss the implementation and funding of such Alteration(s) and if the Port and Tenant, acting in good faith and considering use of the Allowances and application of the rent credits provided under Section 4.3, cannot agree on the implementation and funding of such Alteration(s), Tenant shall have the right to terminate this Amended and Restated Agreement effective at the end of the current Cruise Period, provided such notice is provided prior to October 1<sup>st</sup> of the current Cruise Period."

7. Section 8.1.8 is hereby deleted in its entirety and replaced with the following:

"Parking. Tenant shall be responsible for all parking, whether passenger, longshore, guest or otherwise, associated with cruise Ship Activities at the Terminal 91 Cruise Facility. Tenant is responsible for providing all courtesy shuttling, whether of passengers, longshore or otherwise. Such courtesy shuttling includes transporting passengers on the terminal between passenger parking lots, Ride Share pickup and drop off and the passenger terminal building. Tenant shall provide such services in a manner consistent with the expectations of the cruise lines and cruise passengers at a standard equal to or higher than comparable international cruise terminals and shall endeavor to address any complaints received by the Port or Tenant prior to the next vessel call. If the Port determines at any time that Tenant is consistently failing to meet the foregoing service standards, the Port shall notify Tenant of such failure and the Port and Tenant shall meet as soon as practicable to address the service issues, which may include adding additional shuttles or otherwise increasing shuttle capacity or frequency based on demand."

8. Section 13.4.1 is hereby deleted in its entirety and replaced with the following:

"Maintenance Allowance. The Port shall provide Tenant with an annual allowance (the "Maintenance Allowance") valued at one hundred thousand dollars and no cents (\$100,000.00) per calendar year after 2015 for Tenant's use in meeting the repair and replacement obligations imposed upon it pursuant to Section 13.1. The Maintenance Allowance, however, is not a cash allowance. Instead, it represents an agreement by the Port to provide, through the Port's Seaport Maintenance Department, up to one hundred thousand dollars (\$100,000.00) worth of repair and maintenance services not otherwise within the scope of the Port's responsibilities under Section 13.2. In the event that Tenant

seeks to access the Maintenance Allowance, it shall provide a description of the services that it seeks to have completed and arrange for the Port, through its Seaport Maintenance Department, to provide such services. Those services will be charged against the Maintenance Allowance for the year in which the services are actually provided at the same rate, and in the same manner, that such services would otherwise be charged against any other department/organization with the Port's Seaport Division. Any portion of the Maintenance Allowance not used within a calendar year shall be forfeited. In the event that the cost for the services requested by Tenant exceeds the amount of the Maintenance Allowance, Tenant shall promptly (and in no event later than the remittance of the next payment of Rent) reimburse the Port for such amounts following receipt of an invoice from the Port detailing such amounts."

9. Add the following Section 14.7:

"Best Management Practices. Tenant shall implement the best management practices ("BMPs") identified in the May 24, 2016 Agreement to Implement BMPs at Pier 91 (attached as Exhibit D and incorporated herein), as further described in the August 31, 2016 Agreement Regarding Implementation of Best Management Practices at Pier 91 (attached as Exhibit E and incorporated herein)."

10. Add the following Section 14.8:

"Stormwater Management. Tenant acknowledges that the Premises are subject to the requirements of the City of Seattle ("City") ordinance regarding stormwater drainage, source control, and other applicable City requirements, as well as the federal Clean Water Act and Washington State Department of Ecology ("Ecology") stormwater regulations and permits, as applicable. Tenant will comply with all requirements of the City ordinance and Ecology regulations and permits applicable to Tenant. Tenant shall keep onsite a spill kit capable of handling minor spills and/or leaks from parked vehicles. In the event of a spill or leak to a drainage structure, Tenant shall notify the Port's 24-hour Incident Notification Line at (206) 787-3751."

11. Add the following Section 14.9:

"Environmental Covenant. NOTICE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT GRANTED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON AUGUST 28, 2017 AND RECORDED WITH THE KING COUNTY AUDITOR UNDER RECORDING NUMBER 20170828000574. USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT AS EXHIBIT F."

12. Exhibits D, E and F are attached hereto and incorporated herein.

13. Tenant shall promptly furnish in a form satisfactory to the Port the security described in Section 5.1 as revised above.

14. Except as expressly amended herein, all provisions of the Agreement (as previously amended) shall remain in full force and effect.

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



ORIGINAL

LANDLORD  
PORT OF SEATTLE

a municipal corporation

TENANT  
CRUISE TERMINALS OF AMERICA,  
LLC  
a Washington liability company

By [Signature]  
Its EXECUTIVE DIRECTOR

By [Signature]  
Its Manager

Notary to Fourth Amendment to Lease

with Cruise Terminals of America.

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

On this 6 day of NOVEMBER, 2019, before me personally appeared STEPHEN P. METRUCK, to me known to be the EXECUTIVE DIRECTOR of the PORT OF SEATTLE, the municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



[Signature]  
(Signature)  
Hugh Hastings  
(Print Name)  
Notary Public, in and for the State of Washington,  
residing at KING CO.  
My Commission expires: 4-30-2020

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

On this 22 day of OCTOBER, 2019, before me personally appeared JOHN OPPENHEIMER to me known to be the MANAGER of the CRUISE TERMINALS OF AMERICA, the individual/entity that executed the within and foregoing instrument as Tenant, and acknowledged said instrument to be the free and voluntary act and deed of said individual/entity, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



[Signature]  
(Signature)  
AMY MCBRIDE  
(Print Name)  
Notary Public, in and for the State of Washington,  
residing at SEATTLE, WA  
My Commission expires: 12/18/21

## EXHIBIT D

### AGREEMENT TO IMPLEMENT BMPs AT PIER 91

This Agreement is dated this 24<sup>th</sup> day of May 2016 by and between Puget Soundkeeper Alliance, a Washington non-profit corporation ("Soundkeeper"); Cruise Terminals of America, LLC, a Washington Limited Liability Company ("CTA"); and the Port of Seattle, a Washington municipal corporation (the "Port").

WHEREAS Soundkeeper filed a citizen suit under the federal Clean Water Act ("CWA") against CTA and the Port as defendants, United States District Court for the Western District of Washington, Cause No. 14-cv-00476-JCC (the "Lawsuit"); and

WHEREAS the Lawsuit alleges that CTA and/or the Port should have applied for and obtained coverage for the Pier 66 cruise terminal facility under the Washington State Department of Ecology's ("Ecology's") Industrial Stormwater General Permit (the "ISGP"); and

WHEREAS CTA and the Port deny the claims made against them;

WHEREAS the Parties have entered into an agreement resolving all claims in the Lawsuit and the potential for similar claims regarding the cruise terminal facility at Pier 91, 2001 West Garfield St., Seattle, Washington 98119, that discharges into Elliot Bay and that is owned by the Port and leased by CTA (the "Pier 91 Cruise Facility"); and

WHEREAS, the Parties have agreed to implement the agreement by filing a Consent Decree in the District Court regarding Pier 66 and entering into this Agreement regarding the Pier 91 Cruise Facility.

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. The Port, CTA, or one of their designees will implement the best management practices (BMPs) for cruise operations set forth on Exhibit A at the Pier 91 Cruise Facility during the cruise season, commencing at the beginning of the 2016 cruise season or after finalization of this Agreement, whichever is later. The Port and CTA hereby certify that the cruise operations set forth on Exhibit A that take place at the Pier 91 Cruise Facility are substantially identical to the cruise operations occurring at the Pier 66 cruise terminal.
2. The Port, CTA or one of their designees will provide Soundkeeper with a report twice a year documenting the implementation of the BMPs at the Pier 91 Cruise Facility<sup>1</sup>. The report will include the following descriptions: (a) the Port's, CTA's or their designees' implementation of each BMP; (b) the entities involved in cruise-related activities who were informed about the BMPs by the Port, CTA or one of their designees; and (c) The Port's, CTA's or their designees' knowledge regarding the implementation of each BMP by these other entities. The report will identify the author. The entity providing the report will obtain information on the implementation of the BMPs to the extent it is reasonably practical from Port internal work orders and information obtained from the Pier 91 Cruise Facility operator. This list is not exhaustive or intended to limit the information the Port, CTA or one of their designees may provide in the reports.

<sup>1</sup> Only one report will be provided for the 2016 cruise season.

3. Soundkeeper covenants not to sue CTA, CTA's members, the Port, or any successor owner or operator of the Facility, and covenants not to associate with, or support financially or otherwise any other person to sue CTA, CTA's members, the Port or any successor owner or operator of the Facility, for any of the stormwater discharges associated with the same or substantially identical cruise-related activities at the Pier 91 Cruise Facility that Soundkeeper alleged in its expert reports or pleadings in the Lawsuit should have necessitated CTA, CTA's members, and/or the Port to obtain coverage under Ecology's ISGP at Pier 66. This covenant not to sue will extend for five years from the date of this Agreement unless good cause exists for earlier termination based upon either a material change in cruise-related activities at the Pier that are subject to the BMPs attached as Exhibit A or a material change in the water quality regulations regarding those activities. This Agreement may be renewed for a like term by mutual consent, and if one or more parties refuses to consent, then this covenant not to sue will be continued for an additional period of one year during which time the parties will negotiate the terms of renewal in good faith.
4. Any notifications required by this Agreement must be in writing. The sending party may use any of the following methods of delivery: (1) personal delivery; (2) registered or certified mail, in each case return receipt requested and postage prepaid; (3) a nationally recognized overnight courier, with all fees prepaid; or (4) e-mail. For a notice or other communication regarding this Agreement to be valid, it must be delivered to the receiving party at the addresses listed below or to any other address designated by the receiving party in a notice in accordance with this paragraph.

If to Soundkeeper:

Katelyn Kinn  
Puget Soundkeeper Alliance  
130 Nickerson Street, Suite 107  
Seattle WA 98109  
Email: [katelyn@pugetsoundkeeper.org](mailto:katelyn@pugetsoundkeeper.org)

and to:

Smith & Lowney PLLC  
2317 East John St.  
Seattle, WA 98112  
Email: [marcz@igc.org](mailto:marcz@igc.org)

If to Port of Seattle:

Thomas H. Tanaka  
Port of Seattle  
2711 Alaskan Way, Pier 69  
PO Box 1209  
Seattle, WA 98111-1209  
Email: [Tanaka.t@portseattle.org](mailto:Tanaka.t@portseattle.org)



and to:

Tom McDonald  
Cascadia Law Group PLLC  
606 Columbia St. NW, Suite 212  
Olympia, WA 98501  
Email: [tmcdonald@cascadialaw.com](mailto:tmcdonald@cascadialaw.com)

If to CTA:

Jean Cox  
Cruise Terminals of America, LLC  
2225 Alaska Way  
Seattle, WA 98121  
Email: [jean.cox@seattlepier66.com](mailto:jean.cox@seattlepier66.com)

and to:

Dianne K. Conway  
Gordon Thomas Honeywell LLP  
1201 Pacific Ave., Suite 2100  
Tacoma, WA 98407  
Email: [dconway@gth-law.com](mailto:dconway@gth-law.com)

5. A notice or other communication regarding this Agreement is effective when received, unless the notice or other communication is received after 5:00 p.m., in which case the notice will be deemed received at 9:00 a.m. on the next business day. A notice or other communication will be deemed to have been received: (a) if it is delivered in person or sent by registered or certified mail or by nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt; or (b) if the receiving party rejects or otherwise refuses to accept it, or if it cannot be delivered because of a change in address for which no notice was given, then upon that rejection, refusal, or inability to deliver; or (c) for notice provided via e-mail, upon receipt of a response by the party providing notice or other communication regarding this Agreement.
6. A force majeure event is any event outside the reasonable control of the Port and/or CTA that causes a delay in performing tasks required by this Agreement that cannot be cured by due diligence. Delay in performance of a task required by this Agreement caused by a force majeure event is not a failure to comply with the terms of this Agreement, provided that the Port or CTA notify Soundkeeper of the event; the steps that the Port and/or CTA will take to perform the task; the projected time that will be needed to complete the task; and the measures that have been taken or will be taken to prevent or minimize any impacts to stormwater quality resulting from delay in completing the task.

The Port or CTA will notify Soundkeeper of the occurrence of a force majeure event as soon as reasonably possible but, in any case, no later than 15 days after the occurrence of

the event. In such event, the time for performance of the task will be extended for a reasonable period of time following the force majeure event.

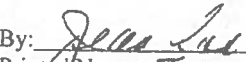
By way of example and not limitation, force majeure events include but are not limited to:

- a. Acts of God, war, insurrection, terrorism, or civil disturbance;
  - b. Earthquakes, landslides, fire, floods;
  - c. Actions or inactions of third parties over which the Port or CTA have no control;
  - d. Unusually adverse weather conditions;
  - e. Restraint by court order or order of public authority;
  - f. Strikes or other labor disruptions;
  - g. Any permit or other approval sought by the Port or CTA from a government authority to implement any of the actions required by this Agreement, where such approval is not granted or is delayed, and where the Port and CTA have timely and in good faith sought the permit or approval; and
  - h. Litigation, arbitration, or mediation that causes delay.
7. Attorney Fees. In the event of any controversy or dispute between the Parties pertaining to this Agreement, including enforcement of its terms or interpretation thereof, the substantially prevailing Party will be entitled to recover from the losing Party its reasonable attorneys' fees, expenses, and costs.
8. Binding on Successors. This Agreement is binding upon, and inures to the benefit of, Soundkeeper and CTA and their respective heirs, legatees, representatives, successors, and assigns, as well as any successor owner or operator of the Pier 91 Cruise Facility.
9. Counterpart Originals. This Agreement may be executed in counterpart originals, each of which will be deemed original, with the same effect as if the signatures thereto were on the same instrument.
10. Governing Law and Venue. This Agreement is governed by, and construed and interpreted in accordance with the law of the State of Washington. Venue for any lawsuit will be the King County Superior Court, Washington.


PUGET SOUNDKEEPER ALLIANCE

By: Chris Wilke  
Printed Name: Chris Wilke  
Its: Executive Director

CRUISE TERMINALS OF AMERICA LLC

By:   
Printed Name: JEAN COX  
Its: GENERAL MANAGER

THE PORT OF SEATTLE

By:   
Printed Name: Craig R. Watson  
Its: General Counsel / Chief Compliance Officer

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Exhibit A

**BEST MANAGEMENT PRACTICES FOR PIER 91**

**a. Fueling and Maintenance:**

- i. No fueling, except for the gangway and cranes that are discussed below, may occur on any portion of the Facility that discharges stormwater to Elliott Bay.
- ii. No maintenance of vehicles may occur on any portion of the Facility that discharges stormwater to Elliott Bay. Maintenance of vehicles includes, but is not limited to, changing lubricating, hydraulic and/or transmission oil; topping off fluids, changing oil and/or fuel filters, grinding, sanding, welding, mechanical repairs, and/or painting.
- iii. For the main passenger gangway system and cranes at the facility:
  1. Drip collection pans or other effective containment devices must be placed under equipment that are subject to fluid leaks, including but not limited to areas where fluids are changed and topped off, fuel is added, and fuel tanks are exchanged.
  2. Tarps or drop cloths must be placed under equipment being repaired if the equipment is immobile or emergency repairs must be made before it can be removed off-site; and
  3. The contents of the containment devices, tarps and/or drop cloths must be collected and disposed of in a manner consistent with federal, state and local laws

**b. Storage of Equipment:**

- i. When parked or stored without covered protection from precipitation, drip collection pans or other effective containment devices are to be placed under any parts of mobile equipment that have petroleum-based materials exposed to precipitation and/or runoff. The containment devices must have sufficient depth and/or capacity to contain any precipitation that enters. The contents of the containment devices must be collected and disposed of in a manner consistent with federal, state, and local laws. These measures must be applied to the following equipment at a minimum:
  1. Parts of the main passenger gangway, including but not limited to screw jacks and exposed drive and positioning mechanisms. Drip pans or other effective containment devices must be employed in both the cruise-season and off-season locations.

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2. Parts of the cranes, including but not limited to gearing and hydraulic oil lines/connections.
3. Parts of the fork lifts, including but not limited to greased components and hydraulic oil lines/connections.

**c. Product Delivery and Waste Removal:**

- i. At the pier, drip collection pans or other effective containment devices must be placed under all hose connections during fluid transfers to and from ships and at all hose connection points. The contents of the containment devices must be disposed in a manner consistent with federal, state, and local laws.
- ii. All hoses used in fluid transfers must be inspected immediately before they are used to transfer fluids and any damaged or flawed hose sections replaced before any transfer. For oil and hazardous material transfers, a record of these inspections, observations made, and replacements provided will be kept on the Declaration of Inspection Prior to Bulk Cargo Transfer required by the US Coast Guard under 33 CFR 156.
- iii. The following fluid transfer operations at the Facility will be conducted as follows:
  1. Lubricating oil deliveries to vessels: The measures in c. i. and ii will be used at each connection point at the delivery trucks, and booms will be installed around oil delivery truck tanks before transfers begin. Storm drains located within the area controlled by the land boom will be protected. The Port will have land boom, drain covers, and drip pans available for vendors.
  2. Oily bilge water removal from vessels: The measures in c. i. and ii will be used at each connection point at the removal truck.
  3. Sewage removal from vessels: The measures in c. i. and ii will be used at each connection point at any storage tank on the Pier or any removal trucks.

**d. Vessel Painting and Washing:**

- i. Any washing and spraying of the outside of the vessels must be done with clean water.
- ii. No spray painting or sand blasting of vessels will occur at the facility.
- iii. No mixing of paint or tool cleaning related to vessel painting and washing will occur on portions of the cruise terminal facility that discharge stormwater to Elliot Bay.

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iv. Tarps or drop cloths will be used as follows:

1. A tarp or drop cloth will be affixed under or on the floor of any manlift (i.e. cherry picker) basket when using a manlift located on the pier for any painting, paint preparation, finish application or washing occurs. The floor of the manlift will be inspected for any paint drips or spills and wiped before removing the tarp or drop cloth from beneath.
2. In addition to a tarp affixed under or on the floor of the manlift, it will be recommended to the vessel operators to exercise additional caution to prevent the discharge of paint drips and paint chips directly into the water, and in so doing consider the design, installation and use of any drop cloth device attached to the vessel or extended from the manlift, to the extent they will not compromise the safety of the person operating the manlift or other employees working in the area.
3. Contents collected on the drop cloth must be disposed of promptly and in a manner consistent with federal, state, and local laws.
4. Upon completion of any exterior painting of vessels, the surface of the Pier in the vicinity of the painting activity will be inspected for paint drip and cleaned up as necessary.
5. These activities will be monitored to ensure that BMPs are properly implemented.

e. **Housekeeping:**

- i. The cruise terminal facility Storm Water Pollution Prevention Plan will identify a pollution prevention team responsible for proper application of all BMPs.
- ii. Prior to the beginning of each cruise season, all Port and operator employees and managing representatives of cruise-related vendors or contracted entities working on the Pier with BMP-related duties will be informed about the importance of best management practices at the facility. All employees assigned to perform any function related to BMP implementation must be instructed on how to perform those functions effectively.
- iii. At the start of each cruise season, a list of current BMPs specific to cruise terminal operations will be circulated to terminal operator, stevedore companies, all vessels, and all known vendors or on the first occasion that new vessels and vendors arrive at the Pier.
- iv. When there are vessels at the cruise terminal facility, daily inspections must be conducted of all operations having the potential to contaminate

stormwater and to ensure the BMPs are being applied to those operations. Corrections must be immediately made when any problems are found.

- v. The Pier surface during the cruise season will be vacuum swept as follows: Every week or as deemed necessary a vacuum sweeper will be used to spot clean the high traffic areas, and a large mechanical vacuum sweeper-truck will be used once a month during cruise season as well as before and after the cruise season.

f. **Spill Prevention and Cleanup Program:**

- i. A spill prevention and clean-up program that is specific to the facility will be maintained and implemented.
- ii. Employees, representatives and contractors with BMP-associated Terminal duties must receive training on spill prevention and cleanup measures at the beginning of each cruise season.

## EXHIBIT E

### AGREEMENT REGARDING IMPLEMENTATION OF BEST MANAGEMENT PRACTICES AT PIER 91

This Agreement is dated this 21<sup>st</sup> day of August 2016 by and between the Port of Seattle, a Washington municipal corporation ("Port"), and Cruise Terminals of America, LLC, a Washington Limited Liability Company ("CTA").

#### RECITALS

- (a) Puget Soundkeeper Alliance ("PSA") filed a citizen suit under the federal Clean Water Act ("CWA") against CTA and the Port as defendants, United States District Court for the Western District of Washington, Cause No. 14-cv-00476-JCC (the "Lawsuit");
- (b) The Lawsuit alleged that CTA and/or the Port should have applied for and obtained coverage for the Pier 66 cruise terminal facility under the Washington State Department of Ecology's ("Ecology") Industrial Stormwater General Permit (the "ISGP");
- (c) CTA and the Port denied all the claims in the Lawsuit made against them but filed cross-claims against each other in the event the Court found liability;
- (d) The parties entered into a Settlement Agreement resolving all claims in the Lawsuit and also resolving the potential for similar claims regarding the cruise terminal facility at Pier 91, 2001 West Garfield St., Seattle, Washington 98119, which the Port owns and which CTA leases during the cruise season ("Facility");
- (e) As part of the Settlement Agreement, CTA, the Port, and PSA entered into an *Agreement to Implement Best Management Practices at Pier 91* ("Pier 91 Agreement"), wherein the Port and CTA agreed to implement additional Best Management Practices ("BMPs") for cruise terminal operations, a copy of which is attached as Exhibit A; and
- (f) CTA and the Port now wish to document how responsibility for implementing the BMPs and other terms of the Pier 91 Agreement will be allocated.

#### AGREEMENT

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 1. At the start of each cruise season and if it deems necessary during the cruise season, CTA will provide the lists of BMPs specific to cruise terminal operations to the stevedore companies, all vessel agents, all vessel contractors, and all vendors it knows engage in BMP-related activities. The Port will provide CTA with the list of BMPs for the cruise terminal Facility and with specific BMP documents that should be delivered to the vendor delivery trucks, the tanker trucks, and the man-lifts. See attached documents, Exhibit B.



2. CTA will be present at the Facility at all times when cruise activities are occurring. CTA will monitor the implementation of the BMPs and will be available to review the BMPs for the covered activities with its staff, all contractors, all stevedore companies, all vessels, and all vendors it knows engage in BMP activities. If a problem is found with implementation of a BMP, CTA will instruct the entity responsible for the activity to take immediate corrective action.
3. When there are vessels at the cruise terminal Facility:
  - a. The Port will conduct an inspection of all operations having the potential to contaminate stormwater discharged from the Facility to Elliott Bay at a minimum of once every day.
  - b. If the Port observes a non-emergency problem with implementation of a BMP, the Port will inform CTA, who will then instruct the entity responsible for the activity to take immediate corrective action.
  - c. If the Port observes a problem with implementation of a BMP that presents an immediate risk to the environment or human health or safety, the Port will instruct the entity responsible for the activity to take immediate corrective action and will alert CTA about the problem.
4. The entities responsible for implementation of the BMPs are as follows:
  - a. The Port is responsible for Implementation of the BMPs for the activities conducted by Port staff;
  - b. CTA is responsible for implementation of the BMPs for the activities conducted by its staff, contractors, stevedores, and vendors that engage in covered activities; and
  - c. The vessels are responsible for the BMPs related to the activities of their staff, vendors, stevedores and contractors. Because the vessels are not a party to this Agreement, the Port will communicate either directly or through CTA with the vessel agent and other available vessel personnel in regard to any problem with implementation of a BMP.
5. In regard to specific BMPs:
  - a. During the cruise season, the pier surface will be vacuum swept as follows:
    - i. Every week or as deemed necessary, a vacuum sweeper will be used to spot clean the high traffic areas. The Port will provide and maintain this sweeper at its own cost. CTA will arrange to have this sweeping done and will be responsible for any costs of sweeping.
    - ii. Once a month, the Port will use a large mechanical vacuum sweeper-truck to sweep the pier at the cruise terminal area. The Port will also

sweep once before and once after the cruise season. The Port will provide and maintain this sweeper. The Port will pay its staff to perform the monthly sweeping. CTA will pay for longshore labor for the costs that they would have incurred to perform these sweeps during cruise season.

- b. For the main passenger gangway system and cranes at the Facility, CTA will notify the equipment operators of the required BMPs and ensure that the BMPs are implemented correctly.
- c. For storage of equipment, CTA will notify third-party equipment operators of the required BMPs and ensure that the BMPs are implemented correctly.
- d. The Facility Storm Water Pollution Prevention Plan (SWPPP) will identify the following pollution prevention team.
  - i. Supervisor: Puth Eang, CTA  
Responsibilities: Supervising SWPPP Implementation,  
Planning Structural BMPs,  
Updating the SWPPP as necessary,  
Coordinating activities with Port of Seattle  
Environmental, Maintenance and  
Compliance staff, and  
Recordkeeping.
  - ii. Maintenance: Jim Anderson, Port of Seattle  
Responsibilities: Inspecting stormwater system and BMPs,  
Coordinating maintenance with outside  
contractor (if used), and  
Maintaining stormwater system and BMPs  
as necessary.
  - iii. All CTA Employees  
Responsibilities: Good housekeeping,  
Promptly reporting spills, drips and leaks,  
Appropriately storing materials and wastes, and  
Implementing other operational BMPs.
- e. CTA and the Port will promptly notify each other of any changes in key personnel on the pollution prevention team identified above.
- f. The Port will conduct an educational training and orientation instruction at the Facility at the beginning of each cruise season. CTA will be responsible for ensuring its employees and contractors, the stevedores, and vendors attend

the training. CTA will contact all vendors it knows engage in BMP-related activities at the Facility about the training.

- g. CTA will direct the security guard(s) at the Facility to provide a BMP instruction sheet to vendors that perform BMP-related activities when they sign in at the security gate. The Port developed the BMP instruction sheets to be provided to the vendors (Exhibit B).
  - h. The Spill Prevention, Reporting, and Emergency Cleanup program has been developed by the Port and is in Appendix D of the Spill Plan Summary of the Facility's SWPPP. CTA will be responsible for implementing the program when necessary.
6. **Semiannual Report.** The Port will be responsible for providing to PSA the semiannual reports described in Paragraph 2 of the Pier 91 Agreement. Upon request by the Port, CTA will provide information necessary to complete the report. CTA will communicate with staff, contractors, stevedores and vendors to obtain information necessary to complete the report.
7. **Non-waiver of Existing Requirements.** The terms of this Agreement do not waive the requirements of CTA as tenant to implement the BMPs required under the Facility's SWPPP and the Phase I Municipal Stormwater Permit during the cruise terminal season and for the year-round leased area.
8. **Stipulation and Order of Dismissal.** The parties will sign a Stipulation agreeing to the dismissal of the cross-claims each has against the other and seek a corresponding order from the Court.
9. **Notices.** Any notifications required by this Agreement must be in writing. The sending party may use any of the following methods of delivery: (1) personal delivery; (2) registered or certified mail, in each case return receipt requested and postage prepaid; (3) a nationally recognized overnight courier, with all fees prepaid; or (4) e-mail. For a notice or other communication regarding this Agreement to be valid, it must be delivered to the receiving party at the addresses listed below or to any other address designated by the receiving party in a notice in accordance with this paragraph.

**If to Port of Seattle:**

Elizabeth C. Black  
Port of Seattle  
2711 Alaskan Way, Pier 69  
PO Box 1209  
Seattle, WA 98111-1209  
Email: black.e@portseattle.org

and to:

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Tom McDonald  
Cascadia Law Group PLLC  
606 Columbia St. NW, Suite 212  
Olympia, WA 98501  
Email: tmcDonald@cascadialaw.com

**If to CTA:**

Jean Cox  
Cruise Terminals of America, LLC  
2225 Alaska Way, Suite 103  
Seattle, WA 98121  
Email: jean.cox@seattlepier66.com

and to:

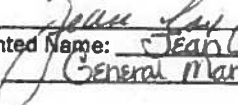
Dianne K. Conway  
Gordon Thomas Honeywell LLP  
1201 Pacific Ave., Suite 2100  
Tacoma, WA 98407  
Email: dconway@gth-law.com

A notice or other communication regarding this Agreement is effective when received, unless the notice or other communication is received after 5:00 p.m., in which case the notice will be deemed received at 9:00 a.m. on the next business day. A notice or other communication will be deemed to have been received: (a) if it is delivered in person or sent by registered or certified mail or by nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt; or (b) if the receiving party rejects or otherwise refuses to accept it, or if it cannot be delivered because of a change in address for which no notice was given, then upon that rejection, refusal, or inability to deliver; or (c) for notice provided via e-mail, upon receipt of a response by the party providing notice or other communication regarding this Agreement.


10. **Attorney Fees.** In the event of any controversy or dispute between the parties pertaining to this Agreement, including enforcement of its terms or interpretation thereof, the substantially prevailing party will be entitled to recover from the losing party its reasonable attorneys' fees, expenses, and costs.
11. **Binding on Successors.** This Agreement is binding upon, and inures to the benefit of, the Port and CTA and their respective heirs, legatees, representatives, successors, and assigns, as well as any successor owner or operator of the Facility.
12. **Counterpart Originals.** This Agreement may be executed in counterpart originals, each of which will be deemed original, with the same effect as if the signatures thereto were on the same instrument.

13. **Governing Law and Venue.** This Agreement is governed by, and construed and interpreted in accordance with the law of the State of Washington. Venue for any lawsuit will be the King County Superior Court, Washington.

**CRUISE TERMINALS OF AMERICA**

By:   
Printed Name: Jean Cox  
Its: General Manager

**THE PORT OF SEATTLE**

By:   
Printed Name: CRAIG R. WATSON  
Its: GENERAL COUNSEL

**Exhibit A**

**BEST MANAGEMENT PRACTICES FOR PIER 91**

**a. Fueling and Maintenance:**

- i. No fueling, except for the gangway and cranes that are discussed below, may occur on any portion of the Facility that discharges stormwater to Elliott Bay.
- ii. No maintenance of vehicles may occur on any portion of the Facility that discharges stormwater to Elliott Bay. Maintenance of vehicles includes, but is not limited to, changing lubricating, hydraulic and/or transmission oil; topping off fluids, changing oil and/or fuel filters, grinding, sanding, welding, mechanical repairs, and/or painting.
- iii. For the main passenger gangway system and cranes at the facility:
  1. Drip collection pans or other effective containment devices must be placed under equipment that are subject to fluid leaks, including but not limited to areas where fluids are changed and topped off, fuel is added, and fuel tanks are exchanged;
  2. Tarps or drop cloths must be placed under equipment being repaired if the equipment is immobile or emergency repairs must be made before it can be removed off-site; and
  3. The contents of the containment devices, tarps and/or drop cloths must be collected and disposed of in a manner consistent with federal, state and local laws.

**b. Storage of Equipment:**

- i. When parked or stored without covered protection from precipitation, drip collection pans or other effective containment devices are to be placed under any parts of mobile equipment that have petroleum-based materials exposed to precipitation and/or runoff. The containment devices must have sufficient depth and/or capacity to contain any precipitation that enters. The contents of the containment devices must be collected and disposed of in a manner consistent with federal, state, and local laws. These measures must be applied to the following equipment at a minimum:
  1. Parts of the main passenger gangway, including but not limited to screw jacks and exposed drive and positioning mechanisms. Drip pans or other effective containment devices must be employed in both the cruise-season and off-season locations.

2. Parts of the cranes, including but not limited to gearing and hydraulic oil lines/connections.
3. Parts of the fork lifts, including but not limited to greased components and hydraulic oil lines/connections.

**c. Product Delivery and Waste Removal:**

- i. At the pier, drip collection pans or other effective containment devices must be placed under all hose connections during fluid transfers to and from ships and at all hose connection points. The contents of the containment devices must be disposed in a manner consistent with federal, state, and local laws.
- ii. All hoses used in fluid transfers must be inspected immediately before they are used to transfer fluids and any damaged or flawed hose sections replaced before any transfer. For oil and hazardous material transfers, a record of these inspections, observations made, and replacements provided will be kept on the Declaration of Inspection Prior to Bulk Cargo Transfer required by the US Coast Guard under 33 CFR 156.
- iii. The following fluid transfer operations at the Facility will be conducted as follows:
  1. Lubricating oil deliveries to vessels: The measures in c. i. and ii will be used at each connection point at the delivery trucks, and booms will be installed around oil delivery truck tanks before transfers begin. Storm drains located within the area controlled by the land boom will be protected. The Port will have land boom, drain covers, and drip pans available for vendors.
  2. Oily bilge water removal from vessels: The measures in c. i. and ii will be used at each connection point at the removal truck.
  3. Sewage removal from vessels: The measures in c. i. and ii will be used at each connection point at any storage tank on the Pier or any removal trucks.

**d. Vessel Painting and Washing:**

- i. Any washing and spraying of the outside of the vessels must be done with clean water.
- ii. No spray painting or sand blasting of vessels will occur at the facility.
- iii. No mixing of paint or tool cleaning related to vessel painting and washing will occur on portions of the cruise terminal facility that discharge stormwater to Elliot Bay.

iv. Tarps or drop cloths will be used as follows:

1. A tarp or drop cloth will be affixed under or on the floor of any manlift (i.e. cherry picker) basket when using a manlift located on the pier for any painting, paint preparation, finish application or washing occurs. The floor of the manlift will be inspected for any paint drips or spills and wiped before removing the tarp or drop cloth from beneath.
2. In addition to a tarp affixed under or on the floor of the manlift, it will be recommended to the vessel operators to exercise additional caution to prevent the discharge of paint drips and paint chips directly into the water, and in so doing consider the design, installation and use of any drop cloth device attached to the vessel or extended from the manlift, to the extent they will not compromise the safety of the person operating the manlift or other employees working in the area.
3. Contents collected on the drop cloth must be disposed of promptly and in a manner consistent with federal, state, and local laws.
4. Upon completion of any exterior painting of vessels, the surface of the Pier in the vicinity of the painting activity will be inspected for paint drip and cleaned up as necessary.
5. These activities will be monitored to ensure that BMPs are properly implemented.

e. **Housekeeping:**

- i. The cruise terminal facility Storm Water Pollution Prevention Plan will identify a pollution prevention team responsible for proper application of all BMPs.
- ii. Prior to the beginning of each cruise season, all Port and operator employees and managing representatives of cruise-related vendors or contracted entities working on the Pier with BMP-related duties will be informed about the importance of best management practices at the facility. All employees assigned to perform any function related to BMP implementation must be instructed on how to perform those functions effectively.
- iii. At the start of each cruise season, a list of current BMPs specific to cruise terminal operations will be circulated to terminal operator, stevedore companies, all vessels, and all known vendors or on the first occasion that new vessels and vendors arrive at the Pier.
- iv. When there are vessels at the cruise terminal facility, daily inspections must be conducted of all operations having the potential to contaminate



stormwater and to ensure the BMPs are being applied to those operations. Corrections must be immediately made when any problems are found.

- v. The Pier surface during the cruise season will be vacuum swept as follows: Every week or as deemed necessary a vacuum sweeper will be used to spot clean the high traffic areas, and a large mechanical vacuum sweeper-truck will be used once a month during cruise season as well as before and after the cruise season.
- f. **Spill Prevention and Cleanup Program:**
  - i. A spill prevention and clean-up program that is specific to the facility will be maintained and implemented.
  - ii. Employees, representatives and contractors with BMP-associated Terminal duties must receive training on spill prevention and cleanup measures at the beginning of each cruise season.

**Exhibit B**

**BMP HANDOUTS FOR VENDOR-DELIVERY TRUCKS,  
TANKER TRUCKS, AND MAN-LIFTS**

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**Delivery Vehicles**  
**Stormwater Best Management Practices (BMPs)**  
**Cruise Terminals, Pier 66 & Pier 91**

These are BMPs that Port tenants, terminal operators, and vessels are requested to follow for cruise terminal operations regardless of whether or not the BMPs are specifically required under the federal, state, and local laws and regulations. -

**Do Not Perform at Pier 66 or Pier 91**

**Fueling and Maintenance:**

- Do not conduct vehicle fueling on the cruise terminal facility
- Do not conduct vehicle maintenance activities on the cruise terminal facility

**BMPs for Cruise Terminals**

**Product Delivery and Waste Removal:**

- Drip collection pans or other effective containment device must be placed under all hose connections during fluid transfers
- Contents of the drip pans must be disposed of in a manner consistent with federal, state, and local laws
- All hoses used in fluid transfers must be inspected immediately before they are used to transfer fluids
- Damaged or flawed hose sections must be replaced before any transfer
- For oil and hazardous material transfers, keep a record of inspections, observations made and replacements
- Declaration of Inspection Prior to Bulk Cargo Transfer required by the US Coast Guard under 33 CFR 156

**Spill Prevention & Response:**

- When a spill occurs, stop the spill or leakage source and contain the spill
- For all spills:
  - Contact the Terminal Operator: (206) 787-3911, AND
  - Contact Marine Maintenance Dispatch (24-hours), (206) 787-3350
- For spills reaching navigable waters, notification calls must be made to EACH of the following agencies:
  - US Coast Guard National Response Center at 1-800-424-8802
  - Washington State Emergency Management Division at 1-800-258-5990
  - Seattle Public Utilities Operations Response Center at (206) 386-1800
  - Seaport Environmental Incident Notification at (206) 295-7912

**Contact information:**

- Terminal Operator: (206) 787-3911
- Marine Maintenance Dispatch (24-hours): (206) 787-3350
- Vessel Agents:
  - P66: (206) 419-7393
  - T91: (206) 683-5496

**Tanker Trucks**  
**Stormwater Best Management Practices (BMPs)**  
**Cruise Terminals, Pier 66 & Pier 91**

These are BMPs that Port tenants, terminal operators, and vessels are requested to follow for cruise terminal operations regardless of whether or not the BMPs are specifically required under the federal, state, and local laws and regulations.

<b>Do Not Perform at Pier 66 or Pier 91</b>
<b>Fueling and Maintenance:</b> <ul style="list-style-type: none"> <li>Do not conduct vehicle fueling on the cruise terminal facility</li> <li>Do not conduct vehicle maintenance activities on the cruise terminal facility</li> </ul>
<b>BMPs for Cruise Terminals</b>
<b>Fueling, Fuel Tank Transfer Trucks, and Maintenance:</b> For main passenger gangways, the following BMPs must be employed: <ul style="list-style-type: none"> <li>Drip collection pans or other effective containment devices must be placed under equipment that are subject to fluid leaks, including but not limited to areas where fluids are changed and topped off, fuel is added, and fuel tanks are exchanged.</li> <li>Tarps or drop cloths must be placed under equipment being repaired if the equipment is immobile or emergency repairs must be made before it can be removed off-site</li> <li>Contents of the collection devices must be collected after each procedure and disposed of in a manner consistent with federal, state and local laws</li> </ul> For cranes, the following BMPs must be employed: <ul style="list-style-type: none"> <li>Drip collection pans or other effective containment devices must be placed under equipment that are subject to fluid leaks, including but not limited to areas where fuel tanks are exchanged.</li> <li>Tarps or drop cloths must be placed under equipment being repaired if the equipment is immobile or emergency repairs must be made before it can be removed off-site.</li> <li>Contents of the collection devices must be collected after each procedure and disposed of in a manner consistent with federal, state and local laws.</li> </ul>
<b>Product Delivery and Waste Removal:</b> <ul style="list-style-type: none"> <li>Drip collection pans or other effective containment device must be placed under all hose connections during fluid transfers</li> <li>Contents of the drip pans must be disposed of in a manner consistent with federal, state, and local laws</li> <li>All hoses used in fluid transfers must be inspected immediately before they are used to transfer fluids</li> <li>Damaged or flawed hose sections must be replaced before any transfer</li> <li>For oil and hazardous material transfers, keep a record of inspections, observations made and replacements</li> <li>Declaration of Inspection Prior to Bulk Cargo Transfer required by the US Coast Guard under 33 CFR 156</li> </ul>
<b>BMPs for the following fluid transfer operations:</b> <ul style="list-style-type: none"> <li>Lubricating oil deliveries to vessels <ul style="list-style-type: none"> <li>Drip collection pans or other effective containment device must be placed under all hose connections during fluid transfers</li> <li>Contents of the drip pans must be disposed of in a manner consistent with federal, state, and local laws</li> <li>All hoses used in fluid transfers must be inspected immediately before they are used to transfer fluids</li> <li>Damaged or flawed hose sections must be replaced before any transfer</li> <li>Booms installed around oil delivery truck tank before transfers begin</li> <li>Storm drains located within the area controlled by the land boom will be protected</li> <li>The Port will have land booms, drain covers, and containment devices (e.g., drip pans) available for vendors</li> </ul> </li> <li>Oily bilge water removal from vessels and at connection truck: <ul style="list-style-type: none"> <li>Drip collection pans or other effective containment device must be placed under all connection</li> </ul> </li> </ul>

**Tanker Trucks**  
**Stormwater Best Management Practices (BMPs)**  
**Cruise Terminals, Pier 66 & Pier 91**

<ul style="list-style-type: none"><li>points during fluid transfers</li><li>o Contents of the containment devices (e.g., drip pans) must be disposed of in a manner consistent with federal, state, and local laws</li><li>o All hoses used in fluid transfers must be inspected immediately before they are used to transfer fluids</li><li>o Damaged or flawed hose sections must be replaced before any transfer</li></ul>
<ul style="list-style-type: none"><li>• Sewage removal from vessels:<ul style="list-style-type: none"><li>o Drip collection pans must be placed under all hose connections during fluid transfers</li><li>o Contents of the containment devices (e.g., drip pans) must be disposed of in a manner consistent with federal, state, and local laws</li><li>o All hoses used in fluid transfers must be inspected immediately before they are used to transfer fluids</li><li>o Damaged or flawed hose sections must be replaced before any transfer</li></ul></li></ul>
<p><b>Spill Prevention &amp; Response:</b></p> <ul style="list-style-type: none"><li>• A spill prevention and clean-up program that is specific to the facility will be maintained and implemented</li><li>• Employees, representatives, and contractors with BMP-associated cruise terminal duties must receive training on spill prevention and cleanup measures at the beginning of each cruise season</li><li>• Sufficient absorbent materials and spill containment instruments to confine a spill should be carried aboard the vessel</li><li>• When a spill occurs, stop the spill or leakage source and contain the spill</li><li>• For all spills:<ul style="list-style-type: none"><li>o Contact the Terminal Operator: (206) 787-3911 AND</li><li>o Contact Marine Maintenance Dispatch (24-hours), (206) 787-3350</li></ul></li><li>• For spills reaching navigable waters, notification calls must be made to EACH of the following agencies:<ul style="list-style-type: none"><li>o US Coast Guard National Response Center at 1-800-424-8802</li><li>o Washington State Emergency Management Division at 1-800-258-5990</li><li>o Seattle Public Utilities Operations Response Center at (206) 386-1800</li><li>o Seaport Environmental Incident Notification at (206) 295-7912</li></ul></li><li>• Further information for reporting spills is posted in the Terminal Operator Office</li></ul>

**Contact Information:**

- Terminal Operator: (206) 787-3911
- Marine Maintenance Dispatch (24-hours): (206) 787-3350
- Vessel Agents:
  - o P66: (206) 419-7393
  - o T91: (206) 683-5496

**Man-lift - Stormwater Best Management Practices  
Cruise Terminals, Pier 66 & Pier 91**

These are BMPs that Port tenants, terminal operators, and vessels are requested to follow for cruise terminal operations regardless of whether or not the BMPs are specifically required under the federal, state, and local laws and regulations.

**Do Not Perform at Pier 66 or Pier 91**

**Fueling and Maintenance:**

- Do not conduct vehicle fueling on the cruise terminal facility
- Do not conduct vehicle maintenance activities on the cruise terminal facility

**Vessel Painting and Washing:**

- No spray painting or sand blasting
- No mixing of paint or tool cleaning
- No washing or painting is allowed directly from the pier deck

**BMPs for Cruise Terminals**

**Vessel Painting and Washing:**

- Washing and spraying of the outside of the vessels must be done with clean water
- Clean water under pressure may be used to remove salt from the outside of the vessel and to wash windows however; any turbidity, oil sheen or discoloration to the receiving water is a violation of RCW 90.48 and is prohibited
- Tarps or drop cloths will be affixed under the floor of any manlift (i.e. cherry picker) basket when using a manlift located on the pier for any painting, paint preparation, finish application or washing
- The floor of the manlift will be inspected for any paint drips or spills and wiped before removing the tarp or drop cloth
- Painters will exercise caution to prevent discharge of paint drips and paint chips directly in to the water from tarp affixed under or on the floor of the manlift
- Consider the design, installation and use of any drop cloth device attached to the pier, the vessel, or extended from manlift, to not compromise worker safety
- Any contents collected on the drop cloth must be disposed of promptly and in a manner consistent with federal, state, and local laws
- Upon completion of any exterior painting of vessels, painters will inspect and clean up any paint drips from the pier in the vicinity of the painting activity
- These activities will be monitored

**Spill Prevention & Response:**

- When a spill occurs, stop the spill or leakage source and contain the spill
- For all spills:
  - Contact the Terminal Operator: (206) 787-3911 AND
  - Contact Marine Maintenance Dispatch (24-hours), (206) 787-3350
- For spills reaching navigable waters, notification calls must be made to EACH of the following agencies:
  - US Coast Guard National Response Center at 1-800-424-8802
  - Washington State Emergency Management Division at 1-800-258-5990
  - Seattle Public Utilities Operations Response Center at (206) 386-1800
  - Seaport Environmental Incident Notification at (206) 295-7912

**Contact information:**

- Terminal Management: (206) 787-3911
- Marine Maintenance Dispatch (24-hours): (206) 787-3350
- Vessel Agents:
  - P66: (206) 419-7393
  - T91: (206) 683-5496

## EXHIBIT F

After Recording Return  
Original Signed Covenant to:  
Tom Mackie, Ecology Site Manager  
Hazardous Waste & Toxics Reduction Program  
Department of Ecology  
1250 W. Alder St.  
Union Gap, WA 98903



**20170828000574**

COVENANT Rec: \$90.00  
8/28/2017 2:34 PM  
KING COUNTY, WA

### Environmental Covenant

**Grantor:** The Port of Seattle

**Grantee:** State of Washington, Department of Ecology

**Brief Legal Description:** THAT PORTION OF THE EAST HALF AND THE SOUTHWEST QUARTER OF SECTION 23; AND THE EAST HALF AND THE NORTHWEST QUARTER OF SECTION 26, ALL IN TOWNSHIP 25 NORTH, RANGE 03 EAST, W.M., IN KING COUNTY, WASHINGTON.

See Exhibit A for full Legal Description.

**Tax Parcel Nos.:** 7666201530, 7666201516, 7666201146, 7666201153, 2325039018

**Cross Reference:** NA

### RECITALS

- a. This document is an environmental (restrictive) covenant (hereafter "Covenant") executed pursuant to the Model Toxics Control Act ("MTCA"), chapter 70.105D RCW and Uniform Environmental Covenants Act ("UECA"), chapter 64.70 RCW.
- b. The Property (as defined below) that is the subject of this Covenant is part or all of a site commonly known as Terminal 91, Washington State Department of Ecology Facility ID# 24768. The Property is legally described in Exhibit A, and illustrated in Exhibit B, both of which are attached (hereafter "Property"). The tank farm affected area ("TFAA") and the short fill ("Short Fill"), each as depicted in Exhibit B, are areas located within the Property to which portions of this Covenant specifically apply. If there are differences between these two Exhibits, the legal description in Exhibit A shall prevail.
- c. The Property is the subject of remedial actions under MTCA ("Remedial Action"). This Covenant is required because residual contamination remains on the Property after completion of the Remedial Actions. Specifically, the following principal contaminants remain on the Property:

Medium	Principal Contaminants Present
Soil	Petroleum hydrocarbons and limited volatile organic compounds, semivolatile organic compounds, polychlorinated biphenyls, and metals
Groundwater	Petroleum hydrocarbons and limited volatile organic compounds, semivolatile organic compounds, polychlorinated biphenyls, and metals.
Surface Water/Sediment	To be determined

d. It is the purpose of this Covenant to restrict certain activities and uses of the Property to protect human health and the environment and the integrity of Remedial Actions conducted at the site. Records describing the extent of residual contamination and the Remedial Actions conducted are available through the Washington State Department of Ecology. This includes, but is not limited to, the following document with respect to the TFAA: Final Cleanup Action Plan, Port of Seattle Terminal 91 Site (June 2010), *Construction Report, Terminal 91 Tank Farm Affected Area Cleanup Action, Seattle, Washington* (PES 2016); and the documents identified in Exhibit C to this Covenant (Exhibit C is defined below).

e. This Covenant grants the Washington State Department of Ecology, as holder of this Covenant, certain rights specified in this Covenant. The right of the Washington State Department of Ecology as a holder is not an ownership interest under MTCA, Chapter 70.105D RCW or the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") 42 USC Chapter § 9601 et seq.

#### COVENANT

The Port of Seattle, as Grantor and fee simple owner of the Property, hereby grants to the Washington State Department of Ecology, and its successors and assignees, (hereafter "Ecology") the following covenants. Furthermore, it is the intent of the Grantor that such covenants shall run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

##### Section 1. General Restrictions and Requirements.

The following general restrictions and requirements shall apply to the Property:

a. **Interference with Remedial Action.** The Grantor shall not engage in any activity on the Property that may impact or interfere with the Remedial Actions and any operation, maintenance, inspection or monitoring of the Remedial Actions without prior written approval from Ecology.

b. **Protection of Human Health and the Environment.** The Grantor shall not engage in any activity on the Property that may threaten the Remedial Actions' continued protection of human health or the environment without prior written approval from Ecology. This includes, but is not limited to, any activity that results in the release of residual contamination that was



contained as a part of the Remedial Actions or that exacerbates or creates a new exposure to residual contamination remaining on the Property.

c. **Continued Compliance Required.** Grantor shall not convey any interest in any portion of the Property without providing for the continued adequate and complete operation, maintenance and monitoring of the Remedial Actions and continued compliance with this Covenant.

d. **Leases.** Grantor shall restrict any lease for any portion of the Property to uses and activities consistent with this Covenant and notify all lessees of the restrictions on the use of the Property.

e. **Amendment to the Covenant.** Grantor must notify and obtain approval from Ecology at least sixty (60) days in advance of any proposed activity or use of the Property in a manner that is inconsistent with this Covenant. Before approving any proposal, Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal. If Ecology approves the proposal, the Covenant will be amended to reflect the change.

## **Section 2. Specific Prohibitions and Requirements.**

In addition to the general restrictions in Section 1 of this Covenant, the following additional specific restrictions and requirements shall apply to the Property.

a. **Land Use; Industrial Land Use.** The remedial action for the TFAA and Short Fill portions of the Property is based on a cleanup designed for industrial property. As such, the TFAA and Short Fill shall be used in perpetuity only for industrial uses, as that term is defined in the rules promulgated under Chapter 70.105D RCW. Prohibited uses of the TFAA or Short Fill portions of the Property include but are not limited to residential uses, childcare facilities, K-12 public or private schools, parks, grazing of animals, and growing of food crops.

b. **Containment of Soil/Waste Materials.** One Remedial Action for the Property is based on containing contaminated soil (with hazardous substances at levels over remediation levels and cleanup levels) under a cover and subsurface barrier consisting low-permeability material. That containment area ("Cut-off Wall Area") is located and depicted in Exhibit B. The primary purpose of this cover is to prevent migration of contamination. As such, the following restrictions shall apply within the area illustrated in Exhibit B:

Any activity at the Property that may result in the release into, or exposure to the environment of, the contaminated soil contained within the Cut-off Wall Area as part of the Remedial Action, or that would create a new exposure pathway involving that contamination, is prohibited without prior written approval from Ecology, except that the following do not require Ecology approval (1) activities permitted by the Ecology-approved Operations & Maintenance Plan and the Compliance Monitoring Plan or (2) activities conducted under the Agreed Order to monitor hazardous substances or repair or augment Remedial Action components.

c. **Vapor/gas controls.** The residual contamination on the Property includes volatile chemicals that may generate harmful vapors. The Remedial Action requires that the exposure pathway for indoor air be managed in the event that any building or enclosed structure is constructed over the TFAA in the future. If so, one of the following approaches must be taken to address this exposure pathway:

- (1) include engineering controls. Any building or other enclosed structure constructed on the TFAA shall include engineering controls (for example, vapor barriers, or sub-slab venting systems in development plans to prevent the potential exposure); or
- (2) conduct a development-specific evaluation of the soil/groundwater to indoor air pathway (i.e., develop risk-based cleanup levels for the specific potential exposures related to the proposed development). If concentrations of indicator hazardous substances exceed the cleanup levels developed under this option, appropriate supplemental remedial actions will be evaluated and implemented or engineering controls implemented, as appropriate.

d. **Groundwater Use.** The groundwater beneath the Property remains contaminated and shall not be extracted for any purpose other than temporary construction dewatering, investigation, monitoring or remediation. Drilling of a well for any water supply purpose is strictly prohibited. Groundwater extracted from the Property for any purpose shall be considered potentially contaminated and any discharge of this water shall be done in accordance with state and federal law.

e. **Removal of Structures.** Without prior written approval of Ecology, the Grantor shall not alter or remove the existing structures within the TFAA, or within the following discrete units described by Exhibit C: A.1, B.24, B.32, B.33, and B.35, in any manner that would expose contaminated soil or result in a release to the environment of contaminants, or that would create a new exposure pathway. Should the Grantor propose to remove all or a portion of such existing structures so that access to the subsurface contamination is feasible, Ecology may require a remedial action be taken to address the subsurface contaminated soil and waste materials.

f. **Worker Protection.** Workers carrying out subsurface activities could encounter contamination above applicable remediation or cleanup levels in the TFAA or the discrete units described in Exhibit C. Any subsurface work in these areas must involve qualified personnel to evaluate contaminated media that may be removed as part of the subsurface work, and any materials removed must be managed in compliance with applicable regulations.

### **Section 3. Access.**

- a. The Grantor shall maintain clear access to all remedial action components necessary to construct, operate, inspect, monitor and maintain the remedial action.
- b. The Grantor freely and voluntarily grants Ecology and its authorized representatives, upon reasonable notice, the right to enter the Property at reasonable times to evaluate the effectiveness of this Covenant and associated Remedial Actions, and enforce compliance with this Covenant and those actions, including the right to take samples, inspect any Remedial Actions conducted on the Property, and to inspect related records.
- c. No right of access or use by a third party to any portion of the Property is conveyed by this instrument.

**Section 4. Notice Requirements.**

**a. Conveyance of Any Interest.** The Grantor, when conveying any interest, including but not limited to title, easements, leases, and security or other interests, within the area of the TFAA that could involve breaches of the asphalt cover, shall:

- (1) Notify Ecology at least thirty (30) days in advance of the conveyance.
- (2) Include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

**NOTICE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT GRANTED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON \_\_\_\_\_ (date) AND RECORDED WITH THE KING COUNTY AUDITOR UNDER RECORDING NUMBER \_\_\_\_\_. USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.**

- (3) Unless otherwise agreed to in writing by Ecology, provide Ecology with a complete copy of the executed document within thirty (30) days of the date of execution of such document.

**b. Reporting Violations.** Should the Grantor become aware of any violation of this Covenant, Grantor shall promptly report such violation to Ecology.

**c. Emergencies.** For any emergency or significant change in site conditions due to acts of nature (for example, flood, fire) resulting in a violation of this Covenant, the Grantor is authorized to respond to such an event in accordance with state and federal law. The Grantor must notify Ecology of the event and response actions planned or taken as soon as practical but no later than within 24 hours of the discovery of the event.

**d. Notices.** Any required written notice, approval, or communication shall be personally delivered or sent by first class mail to the following persons. Any change in this contact information shall be submitted in writing to all parties to this Covenant.

Maritime Environmental Legal Services Port of Seattle P.O. Box 1209 Seattle, WA 98111 (206) 787-3000	Environmental Covenants Coordinator Washington State Department of Ecology Toxics Cleanup Program P.O. Box 47600 Olympia, WA 98504 – 7600 (360) 407-6000
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As an alternative to providing written notice and change in contact information by mail, these documents may be provided electronically in an agreed upon format at the time of submittal.

**Section 5. Modification or Termination.**

**a.** If the conditions at the site requiring a Covenant have changed or no longer exist, then the Grantor may submit a request to Ecology that this Covenant be amended or terminated. Any

amendment or termination of this Covenant must follow the procedures in Chapter 64.70 RCW and Chapter 70.105D RCW and any rules promulgated under these chapters.

**Section 6. Enforcement and Construction.**

- a. This Covenant is being freely and voluntarily granted by the Grantor.
- b. Grantor shall provide Ecology with an original signed Covenant and proof of recording within ten (10) days of execution of this Covenant.
- c. Ecology shall be entitled to enforce the terms of this Covenant by resort to specific performance or legal process. All remedies available in this Covenant shall be in addition to any and all remedies at law or in equity, including Chapter 70.105D RCW and Chapter 64.70 RCW. Enforcement of the terms of this Covenant shall be at the discretion of Ecology, and any forbearance, delay or omission to exercise its rights under this Covenant in the event of a breach of any term of this Covenant is not a waiver by Ecology of that term or of any subsequent breach of that term, or any other term in this Covenant, or of any rights of Ecology under this Covenant.
- d. The Grantor, upon request by Ecology, shall be obligated to pay for Ecology's costs to process a request for any modification or termination of this Covenant and any approval required by this Covenant.
- e. This Covenant shall be liberally construed to meet the intent of the Model Toxics Control Act, chapter 70.105D RCW and Uniform Environmental Covenants Act, chapter 64.70 RCW.
- f. The provisions of this Covenant shall be severable. If any provision in this Covenant or its application to any person or circumstance is held invalid, the remainder of this Covenant or its application to any person or circumstance is not affected and shall continue in full force and effect as though such void provision had not been contained herein.
- g. A heading used at the beginning of any section or paragraph or exhibit of this Covenant may be used to aid in the interpretation of that section or paragraph or exhibit but does not override the specific requirements in that section or paragraph.

The undersigned Grantor warrants that it holds the title to the Property, and the Grantor's signing officer warrants that he has authority to execute this Covenant.

EXECUTED this 23rd day of August, 2017.

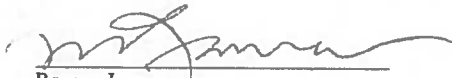
PORT OF SEATTLE



Title: Managing Director, Maritime Div. Port of Seattle

Dated: 8.23.17

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY



Raman Iyer  
Section Manager  
Hazardous Waste Toxics Reduction Program

Dated: 08/16/17


GRANTOR ACKNOWLEDGMENT

STATE OF WASHINGTON

COUNTY OF KING

On this 23<sup>rd</sup> day of August, 2017, I certify that Lindsay Pulsiper personally appeared before me, acknowledged that he/she is the Managing Director, Maritime of the Port of Seattle that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of the Port of Seattle, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument for said corporation.



  
Notary Public in and for the State of  
Washington, residing at Renton.  
My appointment expires 6/30/19.



**Exhibit A**  
**LEGAL DESCRIPTION**



#### TERMINAL 91 LAND DESCRIPTION

THAT PORTION OF THE EAST HALF AND THE SOUTHWEST QUARTER OF SECTION 23; AND THE EAST HALF AND THE NORTHWEST QUARTER OF SECTION 26, ALL IN TOWNSHIP 25 NORTH, RANGE 03 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

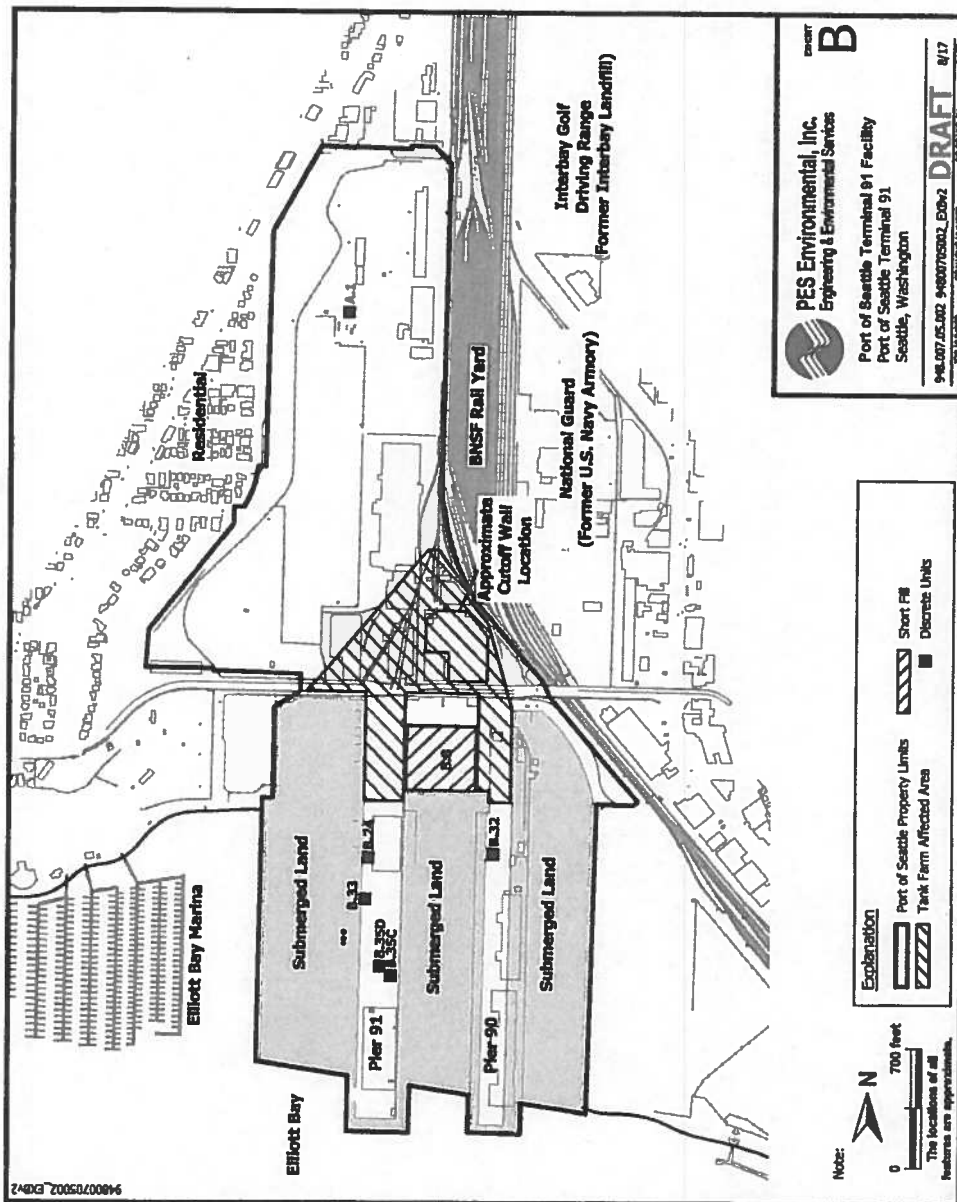
COMMENCING AT A CITY OF SEATTLE MONUMENT AT THE CENTERLINE INTERSECTION OF 15TH AVENUE WEST AND WEST GARFIELD STREET: PROCEED SOUTH 89°51'38" WEST ALONG THE CENTERLINE OF SAID GARFIELD STREET A DISTANCE OF 713.10 FEET;  
THENCE SOUTH 00°08'22" EAST A DISTANCE OF 50.00 FEET TO THE SOUTH MARGIN OF SAID GARFIELD STREET AND THE TRUE POINT OF BEGINNING;  
THENCE NORTH 89°51'38" EAST ALONG THE SOUTH MARGIN OF GARFIELD STREET A DISTANCE OF 7.25 FEET;  
THENCE SOUTH 41°10'23" EAST ALONG THE WESTERLY MARGIN OF ALASKAN WAY A DISTANCE OF 52.89 FEET;  
THENCE SOUTH 00°09'24" EAST A DISTANCE OF 9.04 FEET;  
THENCE SOUTH 41°10'23" EAST A DISTANCE OF 319.07 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 73.00 FEET;  
THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 57°46'05" AN ARC DISTANCE OF 73.60 FEET;  
THENCE SOUTH 16°35'43" WEST A DISTANCE OF 67.60 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 170.00 FEET;  
THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 72°37'45" AN ARC DISTANCE OF 215.50 FEET ALONG THE NORTH MARGIN OF WEST GALER STREET;  
THENCE NORTH 89°48'38" WEST ALONG THE NORTH MARGIN OF WEST GALER STREET, A DISTANCE OF 31.09 FEET TO THE WEST MARGIN OF 16TH AVENUE WEST;  
THENCE SOUTH 00°11'22" WEST ALONG SAID WEST MARGIN AND SAID MARGIN PROJECTED, A DISTANCE OF 1823.90 FEET TO THE INNER HARBOR LINE;  
THENCE NORTH 82°19'41" WEST ALONG SAID INNER HARBOR LINE A DISTANCE OF 404.89 FEET;  
THENCE SOUTH 00°08'22" EAST A DISTANCE OF 139.32 FEET;  
THENCE SOUTH 89°51'38" WEST A DISTANCE OF 310.02 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF SMITH'S COVE WATERWAY;  
THENCE NORTH 00°08'22" WEST A DISTANCE OF 179.16 FEET TO A POINT OF INTERSECTION WITH THE INNER HARBOR LINE;  
THENCE NORTH 82°19'41" WEST ALONG SAID INNER HARBOR LINE A DISTANCE OF 352.39 FEET;  
THENCE SOUTH 00°08'22" EAST A DISTANCE OF 253.50 FEET;  
THENCE SOUTH 89°51'38" WEST A DISTANCE OF 369.03 FEET;  
THENCE NORTH 00°08'22" WEST A DISTANCE OF 303.95 FEET TO A POINT OF INTERSECTION WITH THE INNER HARBOR LINE;  
THENCE NORTH 82°19'41" WEST ALONG SAID INNER HARBOR LINE A DISTANCE OF 536.79 FEET TO A POINT ON THE EXTENDED EAST MARGIN OF VACATED 23RD AVENUE WEST;  
THENCE NORTH 00°08'22" WEST ALONG SAID EXTENSION OF MARGIN A DISTANCE OF 1521.46 FEET TO THE TOE OF EXISTING RIP-RAP;  
THENCE SOUTH 89°00'00" WEST ALONG SAID TOE A DISTANCE OF 212.49 FEET;  
THENCE NORTH 00°09'49" WEST A DISTANCE OF 94.40 FEET;  
THENCE NORTH 45°10'17" WEST A DISTANCE OF 14.14 FEET;  
THENCE NORTH 00°09'49" WEST A DISTANCE OF 262.00 FEET;  
THENCE NORTH 33°17'21" WEST A DISTANCE OF 29.28 FEET;  
THENCE NORTH 00°09'49" WEST A DISTANCE OF 247.18 FEET;  
THENCE NORTH 67°53'22" EAST A DISTANCE OF 31.50 FEET;  
THENCE NORTH 89°51'38" EAST A DISTANCE OF 409.89 FEET;  
THENCE NORTH 00°08'22" WEST A DISTANCE OF 100.00 FEET;  
THENCE SOUTH 89°51'38" WEST A DISTANCE OF 498.70 FEET;

THENCE NORTH 00°11'00" WEST A DISTANCE OF 15.49 FEET;  
THENCE SOUTH 89°46'23" WEST A DISTANCE OF 386.53 FEET;  
THENCE NORTH 03°30'48" EAST A DISTANCE OF 220.83 FEET TO A POINT OF INTERSECTION  
WITH THE SOUTHEAST LINE OF LOT 29, BLOCK 5, HYDE PARK ADDITION;  
THENCE NORTH 36°31'21" EAST ALONG SAID LOT LINE EXTENDED A DISTANCE OF 776.48 FEET;  
THENCE NORTH 00°07'22" WEST A DISTANCE OF 101.07 FEET;  
THENCE NORTH 85°46'24" EAST A DISTANCE OF 57.67 FEET;  
THENCE NORTH 25°00'24" EAST A DISTANCE OF 89.47 FEET;  
THENCE NORTH 18°31'09" EAST A DISTANCE OF 59.62 FEET TO A POINT ON THE SOUTH LINE  
OF LOT 23, BLOCK 194, OF GILMAN'S ADDITION TO THE CITY OF SEATTLE, RECORDED IN  
VOLUME 5 OF PLATS, PAGE 93, KING COUNTY RECORDS;  
THENCE NORTH 10°25'39" EAST A DISTANCE OF 93.56 FEET;  
THENCE NORTH 07°33'54" EAST A DISTANCE OF 6.95 FEET TO THE NORTH LINE OF LOT 20,  
BLOCK 194, OF SAID GILMAN'S ADDITION TO THE CITY OF SEATTLE;  
THENCE NORTH 89°52'39" EAST ALONG SAID MARGIN A DISTANCE OF 38.36 FEET TO A POINT  
OF INTERSECTION WITH THE EAST MARGIN OF 23RD AVENUE WEST;  
THENCE NORTH 00°09'21" WEST ALONG SAID MARGIN A DISTANCE OF 1364.90 FEET TO A  
POINT OF INTERSECTION WITH THE EASTERLY MARGIN OF THORNDYKE AVENUE WEST;  
THENCE NORTH 26°51'54" EAST ALONG SAID MARGIN A DISTANCE OF 578.74 FEET TO A POINT  
OF INTERSECTION WITH THE SOUTH MARGIN OF WEST HALLADAY STREET;  
THENCE NORTH 89°52'16" EAST ALONG SAID MARGIN A DISTANCE OF 571.20 FEET;  
THENCE NORTH 18°32'58" EAST A DISTANCE OF 15.49 FEET;  
THENCE NORTH 89°59'23" EAST A DISTANCE OF 134.64 FEET;  
THENCE SOUTH 40°26'13" EAST A DISTANCE OF 133.98 FEET;  
THENCE SOUTH 00°08'22" EAST A DISTANCE OF 54.74 FEET;  
THENCE SOUTH 51°25'28" EAST A DISTANCE OF 4.29 FEET;  
THENCE SOUTH 00°08'22" EAST A DISTANCE OF 1797.05 FEET TO A POINT OF CURVATURE;  
THENCE SOUTHEASTERLY ON A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 41°02'01",  
A RADIUS OF 1165.78 FEET, WITH AN INITIAL RADIAL BEARING OF NORTH 89°51'38" EAST, AN  
ARC DISTANCE OF 834.90 FEET;  
THENCE SOUTH 41°10'23" EAST A DISTANCE OF 493.85 FEET;  
THENCE SOUTH 26°58'51" EAST A DISTANCE OF 112.12 FEET TO THE TRUE POINT OF  
BEGINNING.

EXCEPT PARCELS A AND B OF BOUNDARY LINE ADJUSTMENT NO. 3016217 AS RECORDED  
NOVEMBER 5, 2013 AS RECORDING NO. 20131105900005, RECORDS OF KING COUNTY,  
WASHINGTON.

ALSO EXCEPT THOSE PORTIONS LYING WITHIN THE BOUNDARIES OF PUBLICLY DEDICATED  
STREET.

**Exhibit B**  
**PROPERTY MAP**



**PES Environmental, Inc.**  
Engineering & Environmental Services

**Port of Seattle Terminal 91 Facility**  
Port of Seattle Terminal 91  
Seattle, Washington

**DRAFT** 8/17  
94800705002\_EXP02  
DRAWING NUMBER  
REVISION BY  
DATE

**Exhibit C**  
**CERTAIN DISCRETE UNITS**

## EXHIBIT C TO RESTRICTIVE COVENANT

	SWMU, AOC, or Other Area	Description	Brief Description	Reference Documents
A.1.	AOC 2	USTs and UST Releases on Terminal 91 Premises—Tanks A-G	Cleanup was done as part of a UST decommissioning effort by the Port. Contaminated soil was left in place near underground utilities. Limited localized petroleum-related ground water contamination.	Kennedy/Jenks Consultants. 1997. Terminal 91 Baseline Report, Terminal 91, Seattle, Washington. Prepared for Port of Seattle. April 1997.
B.8	SWMU 40	Short Fill	Contaminated dredge material was placed onsite under a consent agreement between the Port and Ecology.	Kennedy/Jenks Consultants. 1997. Terminal 91 Baseline Report, Terminal 91, Seattle, Washington. Prepared for Port of Seattle. April 1997.
B.24	Other Area (from Baseline Report)	1990 PNO Pipeline Break South of Building T-38, Pier 91	A release of petroleum from a pipeline was cleaned up in 1990 by PNO. About 1.5 cy of petroleum-contaminated soil were left in place due to inaccessibility beneath a valve box, and bacteria were added to the contaminated soil left in place.	Converse Consultants NW. 1990. Site Investigation and Remedial Cleanup Action, Bunker "C" Fuel Oil Line Break, Pacific Northern Oil Pier 91, Seattle, Washington. Prepared for Pacific Northern Oil. 5 November 1990.  Kennedy/Jenks Consultants. 1997. Terminal 91 Baseline Report, Terminal 91, Seattle, Washington. Prepared for Port of Seattle. April 1997.
B.32	Other Area (Independent Cleanup)	1999 PNO Pipeline Release on Pier 90	A 1999 release of TPH from a pipeline rupture was cleaned up by PNO/Aspect by excavating petroleum-impacted soil. Small quantities of	PES Environmental, Inc. 2009. Pier 90 Independent Remedial Action Report, Pier 90 Work Plan for Confirmation Sampling,

Page 1 of 3

			petroleum-contaminated soil were left in place next to underground structures. Follow-up ground water investigation by K/J in 2011 found no exceedances of MTCA cleanup levels in ground water.	and Pier 91 Work Plan for Additional Assessment, Terminal 91, Seattle, Washington. Prepared for Port of Seattle. 29 December 2009.  Kennedy/Jenks Consultants. 2011. Investigation Summary Report, Piers 90 and 91. Prepared for Port of Seattle. 17 November 2011.
B.33	Other Area (Independent Cleanup)	Pier 91 Pipeline Decommissioning and Historic Pipeline Releases in the Vicinity of the Carnitech Building	A small quantity of petroleum-impacted soil was left in place next to a light standard during cleanup performed during construction for the Carnitech building . Ground water sampling at selected locations along the pier by Aspect in 2012 did not detect TPH in exceedance of MTCA cleanup levels in ground water.	Roth Consulting. 2009. Carnitech Building & Surrounding Area, Independent Remedial Action Report, Terminal 91, Seattle, Washington. Prepared for Port of Seattle. December 2009.  Aspect Consulting. 2012. Summary Report for Additional Assessment Activities, Pier 91, Terminal 91—Seattle, Washington. Prepared for Port of Seattle. 22 August 2012.
B.35	Other Area (Independent Cleanup)	Pier 91 Historic Pipeline Releases	Area C—A small quantity of petroleum-impacted soil was left in place next to the fire-suppression line and duct bank and adjacent to a concrete apron. Follow-up ground water investigation showed no exceedances of MTCA cleanup levels in ground water.  Area D—Gasoline-impacted soil remains in place at	Kennedy/Jenks Consultants. 2011. Investigation Summary Report, Piers 90 and 91. Prepared for Port of Seattle. 17 November 2011.  Landau Associates. 2013. Closure Report, Area D of Discrete Unit B.35, Terminal 91 Site, Seattle,

			Area D. Four consecutive quarters of ground water sampling showed no exceedances of MTCA cleanup levels in ground water.	Washington. Prepared for Port of Seattle. 9 July 2013.
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Additional references:

Roth Consulting. 2004. Letter to Department of Ecology re Request for Letter Confirming No Further Action Required, Certain SWMUs, AOCs, and Other Areas, Port of Seattle Terminal 91 Independent Cleanup, Voluntary Cleanup Application Dated March 10, 1999. Prepared for Port of Seattle. 26 May 2004.

Washington Department of Ecology. 2005. Letter to Port of Seattle re Certain SWMUs, AOCs, and Other Areas at the Port of Seattle's Terminal 91 Facility (listed under the March 10, 1999 Voluntary Cleanup Program Application as *Terminal 91 Uplands*). 20 April 2005.

Roth Consulting. 2010. Letter to Department of Ecology re Request for Opinion on T91 Upland Independent Cleanup Areas, Discrete Units B.18, B.22, B.28, B.29, B.30, B.31, B.33, and B.34 from Exhibit C to Draft Agreed Order, Port of Seattle Terminal 91 Site. Prepared for Port of Seattle. 20 May 2010.

Washington Department of Ecology. 2011. Letter to Port of Seattle re Request for Opinion on Some of the Port of Seattle Terminal 91 Discrete Units Identified in Exhibit C of Agreed Order No. DE 7321.



ORIGINAL

FIFTH AMENDMENT TO LEASE  
BETWEEN  
PORT OF SEATTLE  
AND  
CRUISE TERMINALS OF AMERICA, LLC

THIS FIFTH AMENDMENT TO CRUISE FACILITY LEASE AGREEMENT is made as of ~~07/20/21~~ <sup>PLEASE LEAVE BLANK</sup> by and between the PORT OF SEATTLE, a Washington municipal corporation ("the Port") and CRUISE TERMINALS OF AMERICA, LLC, a Washington limited liability company ("Tenant").

WHEREAS, the parties entered into a Cruise Facility Lease Agreement dated December 21, 2005, which was subsequently amended by the First Amendment dated May 17, 2006, the Second Amendment dated September 24, 2012, the Third Amendment entitled Amended and Restated Cruise Facility Lease Agreement dated August 12, 2015, and the Fourth Amendment dated October 22, 2019 (together the "Agreement"); and

WHEREAS, the Port, Cruise Ship Lines, and Local Health Authorities entered into Memoranda of Agreements with effective dates of June 12, 2021, June 14, 2021 and June 15, 2021 ("MOAs"), required by the Centers for Disease Control and Prevention ("CDC") Framework for Conditional Sailing and Initial Phase COVID-19 Testing Requirements for Protection of Crew ("Conditional Sailing Order"); and

WHEREAS, the parties now wish to further revise the Agreement as previously amended, by incorporating provisions of the MOAs, and by providing a due date for payment of percentage rent of thirty (30) days after the end of the months of August and September 2021, as described below.

NOW THEREFORE, in consideration of their mutual promises, the parties hereby agree as follows:

1. Tenant and the Port acknowledge and adopt Exhibit 1 of the MOAs including the CTO Terminal Cleaning & Sanitizing Protocols, a copy of which is attached hereto and incorporated herein as Exhibit G, which shall be effective through December 31, 2021.
2. Section 4.1.3 is amended to allow payment of Percentage Rent within thirty (30) days (and not fifteen days) after the end of the months of August and September of 2021.
3. Except as expressly amended herein, all provisions of the Agreement (as previously amended) shall remain in full force and effect.

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

LANDLORD  
PORT OF SEATTLE  
a municipal corporation

By  
Its

  
Stephen P. Metruck  
Executive Director

TENANT  
CRUISE TERMINALS OF AMERICA,  
LLC

By

Its

  
~~managing member~~  
manager

ORIGINAL

Notary to Fifth Amendment to Lease  
with Cruise Terminals of America.

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

On this 2nd day of NOVEMBER, 20 21, before me personally appeared STEPHEN P. MERRILL, to me known to be the EXECUTIVE DIRECTOR of the PORT OF SEATTLE, the municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



[Signature]  
(Signature)  
HUGH HASTINGS  
(Print Name)  
Notary Public, in and for the State of Washington,  
residing at KING  
My Commission expires: 4-30-24

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

On this 4 day of OCTOBER, 20 21, before me personally appeared JOHN OPPENHEIMER, to me known to be the MANAGER of the CRUISE TERMINALS OF AMERICA, the individual/entity that executed the within and foregoing instrument as Tenant, and acknowledged said instrument to be the free and voluntary act and deed of said individual/entity, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



Amy mCB  
(Signature)  
AMY MCBRIDE  
(Print Name)  
Notary Public, in and for the State of Washington,  
residing at SEATTLE  
My Commission expires: 12/18/21

# EXHIBIT G

## EXHIBIT 1 TO MEMORANDUM OF AGREEMENT

### Port of Seattle COVID-19 Procedures

#### 1. ABBREVIATIONS

ALS – Advanced Life Support  
BLS – Basic Life Support  
CBP – US Customs and Border Protection  
CDC – US Center for Disease Control & Prevention  
CSL – Cruise Ship Line or Cruise Vessel Operators, vessels over 250 passenger capacity  
CSO – CDC Framework for Conditional Sailing Order dated Oct. 30, 2020 and subsequent CDC technical instructions, clarifications, and guidelines issued in connection therewith  
CTO – Cruise Terminal Operator - Terminal Management  
LHA – collectively and individually, the Washington State Department of Health, and Public Health – Seattle & King County  
POS – Port of Seattle  
PPE – Personal Protection Equipment  
UCS – Unified Command System  
USCG – United States Coast Guard  
WSDH - Washington State Department of Health

#### 2. OVERVIEW

2.1 The Port of Seattle adheres to the Washington State Department of Health COVID-19 guidelines and is in compliance with the Healthy Washington Road to Recovery Plan. The CSL's plans for cruise terminal operations and sanitization must also adhere to these protocols.

2.2 In collaboration with Cruise lines, CDC, the Washington State Department of Health, and Public Health – Seattle & King County, this exhibit defines the protocols which will be implemented for the 2021 cruise season with priority focus on protecting public safety during cruise operations.

#### 3. OBJECTIVES

The objective of these procedures is to provide a safe environment for guests, visitors, crew, port personnel and terminal employees.

#### 4. PORT AND HEALTH CONTACTS

Contact telephone numbers and email addresses are found on the attached Appendix 1.

Katie Chennisi, MPH, Washington State Department of Health

Vance Kawakami, DVM, MPH, DACVPM, Public Health – Seattle & King County

Port of Seattle Executive Director. Steve Metruck

1  
6/8/2021

## EXHIBIT 1 TO MEMORANDUM OF AGREEMENT

Unified Command: U.S. Centers for Disease Control Quarantine Station Seattle  
Washington State Department of Health  
Public Health – Seattle & King County  
U.S. Coast Guard, U.S. Customs and Border Protection  
Seattle Fire Department  
Port of Seattle Police  
Cruise Line designated points of contact

### 5. DESCRIPTION OF FACILITIES

5.1 **Port Capacity.** The Port of Seattle has two (2) cruise terminals that operate separately and independent of one another. Bell Street Cruise Terminal at Pier 66 has one (1) cruise berth and Smith Cove Cruise Terminal at Pier 91 has two (2) berths. For the 2021 cruise season, the Port limits Smith Cove Cruise Terminal at Pier 91 to one ship at berth performing passenger operations (embarking or disembarking passengers). The maximum number of cruise vessels performing passenger operations in the Port of Seattle on the same day is two (2) ships: one at Pier 66 and one at Pier 91, with regularly scheduled passenger embarkation and disembarkation operations between the hours of 0500 and 1800 any day of the week. Cruise vessels in lay-up status, may occupy the second berth at P91 while a cruise ship is performing passenger operations in the adjacent berth. In this situation, there may be three (3) ships at berth in the Port of Seattle on the same day.

5.2 Passengers must embark and disembark in different areas of the terminals so that there is no interaction between arrivals and departures. Luggage is also processed separately so there is no intermingling of luggage from passengers arriving to the terminal (embarkation) with the luggage of passengers coming off the ship (disembarkation).

5.3 Vessel Crew members clear U.S. Customs and Border Protection, disembark and embark through a separate gangway.

5.4 Each terminal offers employee and guest parking facilities. Signage describing physical distancing requirements is placed throughout the terminals, parking areas, including at the elevators.

5.5 MERV 13 air filters have been installed in air conditioning units and HVAC systems will be set to operate at maximum outside air flow during cruise operations.

5.6 Physical distancing signs are located throughout the terminal building including at the entrance to elevators and escalators.

5.7 Hand sanitization stations are located in high traffic areas of the terminals including at the elevators and escalators.

5.8 Signs reminding all individuals in the terminal of the importance of hand washing hygiene are located throughout the facilities including the restrooms.

EXHIBIT 1 TO MEMORANDUM OF AGREEMENT

6. SCREENING

6.1 Medical Screening of Travelers and Crew

(a) **Responsibilities** – Cruise Lines (CSL) shall implement policies and procedures in accordance with the CSO and other applicable CDC requirements and instructions to help ensure the overall public health and safe travel of passengers, crew, and associated workers at POS cruise terminal facilities.

(b) **Proof of Full Vaccination** – Per WSDH guidance, the following are acceptable proof of full vaccination status against COVID-19:

- (1) vaccination card (which includes name of person vaccinated, type of vaccine provided and date last dose administered); or
- (2) a photo of a vaccination card as a separate document, or
- (3) a photo of the person's vaccine card stored on a phone or electronic device; or
- (4) documentation of vaccination from a healthcare provider, electronic health record or state Immunization Information System record.

Self-reported vaccination records that are not verified by a health care provider cannot be accepted. Self-attestation or self-report of full vaccination status alone, absent presentation of one of the written documents described above cannot be accepted. A Cruise Line may choose from among these acceptable methods of vaccination proof in setting their operating standards.

(c) **Proof of Negative COVID-19 Test** – Per WSDH guidance, if proof of a negative COVID-19 test is required or requested, the following are acceptable as proof of a negative COVID-19 test result:

- (1) printed document (from the test provider or laboratory); or
- (2) an email or text message displayed on a phone or electronic device from the test provider or laboratory.

The information provided should include name of person tested, type of test performed, and date of negative test result (for PCR test, date of negative result must be within prior 72 hours; for antigen test, date of negative result must be within prior 24 hours). Self-reported negative test results that are not from a test provider, a laboratory, or a health care provider cannot be accepted.

6.2 **Medical Screening (Embark)** – CSL must submit detailed embarkation plans to POS and CTO for review that comply with the CSO and CDC Technical Instructions, as may be modified.

6.3 **Medical Screening (Disembark)** – CSL must submit detailed debarkation plans to POS and CTO for review that comply with the CSO and CDC Technical Instructions, as may be modified.

6.4 **Use of Face Coverings** – In accordance with Presidential Executive Order 13998, USCG regulations (MSIB-02-21), and other applicable guidance, all persons must utilize appropriate face coverings, as defined by CDC guidelines, while at POS cruise terminals.

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6/8/2021

## EXHIBIT 1 TO MEMORANDUM OF AGREEMENT

6.5 **Physical Distancing** – All CSL passengers, crew, and contractors in designated queuing or pedestrian screening areas are encouraged to maintain physical distancing, per CDC and WSDH guidelines, and follow the instructions of CSL representatives and terminal management staff.

### 7. SANITATION

7.1 **Routine Terminal Sanitation** – Except as otherwise provided herein, the initial base-level cleaning and disinfecting of cruise terminal facilities, is the responsibility of Cruise Terminal Operator CTO and detailed in the CTO Terminal Cleaning & Sanitizing Protocols attached to this Exhibit 1.

#### 7.2 Terminal Cleaning and Disinfection.

(a) **Daily** – CTO may perform an initial daily cleaning when the terminal is scheduled for use, prior to the commencement of cruise operations.

(b) **Debark/embark** – Between the debark and embark phases of cruise operations, CTO will conduct a second cleaning cycle of certain areas of the terminal that were utilized by debarking passengers.

(c) **Outbreak-Level Cleaning** – In the event of an outbreak-level incident (as defined in CDC guidelines or clarifications), CSL shall, at their cost, provide outbreak-level cleaning (as defined in the CDC's Detailed Disinfecting Guidance for Facilities) of each affected area. These areas will include terminals, restrooms, passenger boarding bridges, concourses, and transportation vehicles under CSL's control, in accordance with established CDC guidelines. CSL must develop and file plans with POS that demonstrate how they will undertake the sanitation of areas utilized by travelers (passengers and crew) during or after an outbreak-level event, as defined in CDC guidelines and clarifications.

### 8. EMERGENCY RESPONSE

8.1 **Non-COVID-19 Medical Emergencies** – If non-COVID-19 emergency medical care is required for a patient onboard a vessel, the ship's Captain will utilize the 911 emergency system and first responders will respond to assess patients.

8.2 **COVID-19 Medical Notification** – All medical-related disembarkations in this category will be requested by the CSL prior to the ships arrival at cruise terminal. These requests will be made through the Seattle 911 emergency system and will be processed accordingly by the cruise line's vessel agent and the terminal manager.

(a) **Additional Notifications** – In addition to USCG regulations requiring notification of intention to enter US waters with a potentially ill traveler or crew member and/or any other medical concerns, which trigger the Unified Command System (UCS), all CSL are required to provide similar notification to POS via their vessel agent.

(b) The notification to CDC must include:

- (1) Expected Patient Count
- (2) Patient(s) Condition
- (3) General Demographic Information on Patient(s)

#### EXHIBIT 1 TO MEMORANDUM OF AGREEMENT

(c) **UCS** – The UCS will be utilized throughout the emergency response. The UCS will include representatives from the affected CSL and the following agencies:

- (1) US Coast Guard
- (2) CDC Quarantine Station Seattle
- (3) CBP
- (4) Washington State Department of Health
- (5) Public Health - Seattle & King County
- (6) Port of Seattle
- (7) Office of Emergency Management
- (8) Port of Seattle Police Department
- (9) Seattle Fire Department

**8.3 Examination and Entry Screening** – CSL medical personnel will provide first responders all appropriate and corresponding patient medical records and information to facilitate first responders' ability to properly evaluate the condition of the patient. First responders will evaluate and determine the level of medical care required in accordance with their policy.

(a) **Advanced Life Support (ALS)** – If first responders determine that ALS is required, first responders will make a transport determination at that time.

(b) **Basic Life Support (BLS)** – If first responders determines that the ill traveler falls under a BLS scenario, the traveler will be released back into the CSL's care for transport and treatment in accordance with CSL's established medical care and transportation agreements, as required by the CSO.

#### **8.4 COVID-19 Outbreak & Worst-Case Scenario**

(a) **COVID-19 Outbreaks** – Outbreak levels are as defined by CDC guidance. For reporting purposes, any one or more cases occurring on board a CSL ship must be reported to the agencies and contact persons on the attached Appendix 1.

(b) **Worst-Case Scenario** – For the purposes of this procedure, Worst-Case Scenario is defined as incidents involving simultaneous outbreaks on any two (2) or more distinct ships, whether or not operated by the same CSL.

(c) **Compliance** - In the event of a worst-case scenario, or infectious disease outbreak, the CSL shall comply with any additional requirements that may be imposed by POS, CDC, or the UCS.

#### **9. TERMINAL STAFF PROTECTION & TRAINING**

**9.1 Personal Protection Equipment (PPE)** – CSL's service providers shall procure and issue appropriate PPEs to staff accordingly. Terminal manager will procure and issue appropriate PPEs to terminal management staff and security.

**EXHIBIT 1 TO MEMORANDUM OF AGREEMENT**

9.2 **Initial & Ongoing Training** – POS and CTO terminal management shall be required to complete safety and health training of all personnel in accordance with applicable OSHA, CDC, and USCG requirements, which includes risks of COVID-19 and how to prevent exposure.

9.3 **Vaccination of Terminal Staff** – All terminal staff who are expected to interact with cruise travelers and crew are encouraged to obtain appropriate vaccinations.

10. **COMPLIANCE OFFICER.** Each CSL must appoint a “Compliance Officer” as the primary point of contact for such reasonable inquiries as the Port or LHA may make regarding compliance with CDC guidelines, the MOA and all Exhibits and Annexes to the MOA.

11. **POS RESERVATION OF RIGHTS** – POS, in consultation with LHA, reserves the right to amend, supplement, or otherwise modify this Exhibit.

**Appendices and attachments:**

Appendix 1 – Port and Agency Contact information  
CTO Terminal Cleaning & Sanitizing Protocols



**EXHIBIT 1 TO MEMORANDUM OF AGREEMENT**

**Appendix 1 – Port and Agency Contact information**

FIRST	LAST	AGENCY	PHONE	EMAIL
Clay	Thomas	CBP	206-484-3028	ZACHARY.C.THOMAS@CBP.DHS.GOV
Loretta	Wise	CBP	206-396-3402	LORETTA.WISE@CBP.DHS.GOV
Keysha	Ross	CDC	206-516-9097	kdr6@cdc.gov
Jean	Cox	Cruise Terminals/America	206-419-7992	jean.cox@cruiseterminals.com
Puth	Eang	Cruise Terminals/America	206-571-5680	Puth.Eang@Cruiseterminals.com
Ben	Atherly	Holland America Group	206-301-5372	batherly@hollandamericagroup.com
Charlie	Ball	Holland America Group	206-419-3958	cball@hagroup.com
Eric	Chamberlin	Holland America Group	425-877-8299	echamberlin@hollandamericagroup.com
Kate	Anderson	Intercruises (Vessel Agent)	206-683-5496	portagencysea@intercruises.com
James	Lezcano	NCL - SMS (Vessel Agent)	206-225-4188	jlezcano@smscruises.com
Elizabeth	Tauben	NCL Director of Port Guest Srvce	786-502-5128	etauben@ncl.com
Curry	Mayer (Director)	Office of Emergency Mngmnt.	206-684-0437	curry.mayer@seattle.gov
Kenneth	Neafcy	Office of Emergency Mngmnt.	206-423-3166	Kenneth.Neafcy@seattle.gov
Laurel	Nelson (Deputy Dir.)	Office of Emergency Mngmnt.	206-233-5076	laurel.nelson@seattle.gov
Emergency	Point of Contact	Office of Emergency Mngmnt.	206-233-5147	seattle-eoc@seattle.gov
Marie	Ellingson	POS Cruise Ops Mgr.	206-954-7470	Ellingson.M@portseattle.org
Randy	Hansen	POS Emergency Preparedness	206-519-7454	hansen.r@portseattle.org
Steve	Metruck	POS Exec Director	206-379-8026	Metruck.S@portseattle.org
Peter	McGraw	POS External/Rel's Maritime	206-310-3601	mcgraw.p@portseattle.org
Stephanie	Jones-Stebbins	POS Maritime Managing Dir.	206-979-0956	JonesStebbins.S@portseattle.org
Russ	Read	POS Maritime Security	206-484-0449	Read.R@portseattle.org
Pat	Addison	POS Police Dept	206-423-3867	Hollinger.T@portseattle.org
Debra	Baker	Public Health Sea/KC	206-477-9203	Debra.Baker@kingcounty.gov
Alison	Levy	Public Health Sea/KC	206-263-8726	Allison.Levy@kingcounty.gov
Kirsten	Wysen	Public Health Sea/KC - Prog Mgr	206-263-8757	Kirsten.Wysen@kingcounty.gov
Vance	Kawakami	Public Health SEA/KC - DVM, MPH, DACVPM	206-263-7971	Vance.Kawakami@kingcounty.gov
Eric	Von Brandenfels	Puget Sound Pilots	206-728-6400	evonbrandenfels@pspilots.org
Ben	Bartlett	Royal Caribbean - Priority	305-215-6693	bbartlett@rccl.com

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6/8/2021

EXHIBIT 1 TO MEMORANDUM OF AGREEMENT

Preston	Carnahan	Royal Caribbean - Priority	305-539-6000	pcarnahan@rccl.com
Maggie	Levay	Royal Caribbean - Priority	305-539-4343	mlevay@rccl.com
Jaime	Castillo	Royal Caribbean - Secondary	305-539-6000	jcastillo@rccl.com
Josh (Lt)	Pearson	Seattle Fire Dept	206-255-6871	joshua.pearson@seattle.gov
Jeff	Swanson	SSA Marine	206-696-2055	Jeff.Swanson@ssamarine.com
Lee (Chief)	Bacon	USCG	206-217-6184	Lee.D.Bacon@uscg.mil
Sector Puget Sound	Command Center	USCG	206-217-6001	SectorPugetSoundCC@uscg.mil
Robert	Melancon	USCG	206-217-6363	Robert.B.Melancon@uscg.mil
Lisa	Difede (Epidem 3)	WA Dept. of Health	360-878-1653	lisa.difede@doh.wa.gov
Missy	Lipparelli (Section Mgr)	WA Dept. of Health	360-790-8885	melissa.lipparelli@doh.wa.gov
Katie	Chennisi	WA Dept. of Health - MPH	360-236-4501	Katie.Chennisi@doh.wa.gov



# TERMINAL CLEANING & SANITIZING PROTOCOLS

*Property of Cruise Terminals of America  
2225 Alaskan Way, Suite 103  
Seattle, WA 98121*

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# SECTION 1: TERMINAL SANITATION PLAN

## CLEANING & SANITIZING PROTOCOLS

### TERMINAL SANITATION PROTOCOLS

#### PURPOSE

To establish and maintain the highest possible standards for health, hygiene, sanitation, and safety.

#### EMPLOYEES & PASSENGERS HEALTH & SAFETY

The health and safety of our employees and passengers will always be a top priority at every Cruise Terminals of America operated terminal. Our standards will evolve as we determine new products or protocols for cleanliness and safety. We remain committed to updating all our stakeholders at each new threshold based on ongoing information we receive from CDC, WHO and local/regional health agencies.

All employees will be trained on the proper use of cleaning and disinfecting products.

#### PERSONAL HEALTH & SAFETY

Necessary personal hygiene measures to combat the spread of the flu and other infectious diseases remain the best defense and include:

- Get adequate sleep and eat well-balanced meals to ensure a healthy immune system
- Stay home if you are sick or have symptoms indicative of illness.
- Wash your hands often for 20 seconds or more with hot, soapy water. Dry hands with paper towel.
- Avoid sharing anything that has had contact with saliva, whether in your living or social environments.
- Avoid shaking hands; wherever possible, use alternative greetings that do not involve contact like a cordial hello, it is great to see/meet you, etc.
- Maintain a physical distance from other individuals of at least 6'.
- Do not gather in groups.
- Cough and sneeze into a tissue or your elbow and away from other people.
- Avoid touching your eyes, nose, and mouth.
- Press elevator buttons with your elbow.
- Carry alcohol-based hand sanitizer around with you and use often.

#### TERMINAL SANITATION STANDARDS

- Clean and sanitize high-volume, high-touch areas at least once per day during cruise operations, depending on use, e.g., escalators, elevators, countertops, door handles, etc. Uniformed sanitation team should be seen in PPE.
- Position hand sanitization stations (i.e., touchless hand sanitizing dispensers) throughout the terminal in all high-traffic/high-contact areas to encourage employees and passengers to clean their hands more frequently.
- Eliminate use of pens as much as possible. Wherever pens are necessary, ensure they are sanitized after each use. Put sanitized pens in a container marked "Clean" with a second container marked "Used" for used pens.
- Ensure see-through shields are installed at all key customer reception points everywhere (high-traffic, highly visible areas first).
- Implement a constant and visible rotation in sanitizing public areas (escalators, elevators, restrooms, etc.).
- Ensure a "Checklist" is in place in all restrooms illustrating time the space was last cleaned.



- Essentially, deep clean these areas multiple times per day.
- Remove unnecessary clutter from countertops/tables to facilitate cleaning and decrease the potential spread of germs.
- Enlist a Sanitation Team; the Sanitation Team should be thoroughly trained on health, hygiene, safety, and sanitization standards and be responsible for upholding the Cleaning and Disinfecting Protocols.



SECTION 1: TERMINAL SANITATION PLAN  
**CLEANING & SANITIZING PROTOCOLS**  
OFFICES

**RESPONSE GUIDE:** Terminal Sanitation Plan: Offices

**PURPOSE:** Provide guidance on office cleanliness

---

**Employee:** Utilize proper PPE gloves and mask

**High-Touch Surfaces:** Sanitize at least once per day during cruise operations, depending on use. Examples include door handles, countertops, tables, chairs, arm rests, hand sanitizers, coffee and beverage stations, trash cans, phones, fax machine, copier, etc.

**Office Protocol:**

**Offices and Workstations:**

- Employee to sanitize office and workstation at the beginning and end of each workday by wiping down all surfaces, equipment (phone, computer) and supplies (stapler, etc.)
- Ensure hand sanitizer is available and visible
- Ensure cleaning wipes are available and visible
- Employer to provide disinfectants and sanitizing materials for employee use
- Limit collective use pens and office supplies, ensuring employees keep office supplies at his/her workstation to reduce cross-contamination
- Pick up debris and tidy workstation
- Vacuum around workstation if necessary

**Internal Meeting Areas:**

- Encourage use of virtual meeting tools to limit the need for internal meetings in person
- Ensure hand sanitizer is available and visible
- Seating should allow for appropriate physical distancing (6 feet between meeting participants)

**Copy Machine and Common Area Workspaces:**

- Ensure hand sanitizer is available and visible
- Ensure cleaning wipes are available and visible
- Limit collective use pens and office supplies, ensuring employees keep office supplies at his/her workstation to reduce cross-contamination



SECTION 1: TERMINAL SANITATION PLAN

**CLEANING & SANITIZING PROTOCOLS**

COMMON AREAS

RESPONSE GUIDE: Terminal Sanitation Plan: Common Areas

PURPOSE: Provide guidance on common area cleanliness

---

**Cleaning & Sanitation Team:** Utilize proper PPE including gloves and mask

**High-Touch Surfaces:** Sanitize at least once per day during cruise operations, depending on use. Examples include door handles, countertops, push plates, drinking fountains, elevators and elevator buttons, escalator handrails thresholds and hand railings, tables and chairs, arm rests, hand sanitizers, concierge, trash cans, phones, etc.

**Cleaning Protocol (Janitorial Team):**

- Pick up debris and garbage from floor
- Clean glass and windows
- Empty trash can and replace liners
- Vacuum soft-surfaced floors (carpet); sweep then mop hard surfaced floors (concrete/tile).

**Sanitizing Protocol (Sanitation Team):**

- Disinfect trash can surfaces
- Clean and disinfect all hard surfaces including high-touch surfaces
- Refill hand sanitizer dispensers as needed; disinfect dispensers

**Direction for Specific Common Area Cleaning and Sanitizing:**

1. **Lobby/Concierge/Public Spaces/Communal Areas**
  - Sanitation Team to sanitize the following areas multiple times per cruise day:
    - Elevators
    - Entry Doors
    - Escalators
    - Stair handrails
    - Countertops & Tables
    - Drinking fountains and bottle filler stations
    - Benches & Chairs
    - Trash & Recycle Bins
    - Stanchions
2. **Public Restroom**
  - Place closure sign at entrance
  - Evaluate restroom and remove debris from floors and counters
  - Spray (and do not wipe) all bathroom hard surfaces with disinfectant cleaner – toilets, urinals, sinks, countertops, and fixtures





- Clean mirrors, glass, and windows
- Scrub toilet and urinals
- Wipe bathroom hard surfaces and high touch points after required disinfectant contact time.
- Clean and disinfect floors and apply odor control product (as needed)
- Inspect for quality and remove floor sign when floor is dry
- If required, use sanitation equipment to disinfect all surfaces of restroom at end of day

**3. Elevator**

- Sanitize all high touch surfaces: call buttons, floor buttons, door tracks, emergency call cabinets.
- Sanitize handrails and doors
- If required, use sanitation equipment to disinfect inside of elevator cab at end of day

**4. Escalators/Stairwells**

- Sanitize escalator and stairwell handrails
- Sanitize door handles



SECTION 1: TERMINAL SANITATION PLAN

# CLEANING & SANITIZING PROTOCOLS

BREAKROOMS

**RESPONSE GUIDE:** Terminal Sanitation Plan: Breakrooms

**PURPOSE:** Provide guidance on breakroom cleanliness

---

**Employee:** Utilize proper PPE including gloves and mask

**High-Touch Surfaces:** Sanitize at least once per day during cruise operations, depending on use. Examples include door handles, countertops, tables and chairs, hand sanitizers, trash cans, refrigerator door handle, etc.

**Sanitation Protocol:**

- Employee to sanitize area of usage prior to use
- Employer to provide disinfectants and sanitizing materials for employee use
- Encourage staff to social distance in breakroom if unvaccinated or vaccination status is unknown
- Employee to sanitize area of usage after to use
- Sanitize all touchpoints used during breaks such door handles

**Cleaning Protocol:**

- Employees to clean up break area after themselves
- Clear table and chair of crumbs, debris, or garbage
- Dispose garbage properly in garbage bin
- Clean microwave and sink after use



SECTION 1: TERMINAL SANITATION PLAN

**CLEANING & SANITIZING PROTOCOLS**

SECURITY SCREENING STATIONS

**RESPONSE GUIDE:** Terminal Sanitation Plan: Security Screening Stations

**PURPOSE:** Provide guidance on security screening station cleanliness

---

**Employee:** Utilize proper PPE including gloves and mask

**High-Touch Surfaces:** Sanitize at least 4 times per day, depending on use. Examples include countertops, tables, roller tables, security bins, metal detectors, keyboards, hand sanitizers, trash cans, etc.

**Cleaning & Sanitizing Protocol:**

- Sanitize all surfaces at the beginning of each day.
- Provide disinfectants and sanitizing materials for employee use.
- Sanitize security table surfaces frequently
- Sanitize all security bins after each use
- Sanitize handheld metal detectors and magnetometry units as needed; fully sanitize all units at end of day
- Sanitize x-ray machine conveyor belts as necessary
- Sanitize x-ray machine keyboards after each use
- Clean and disinfect stanchions and stanchion belts as necessary



SECTION 1: TERMINAL SANITATION PLAN

**CLEANING & SANITIZING PROTOCOLS**

RECEIVING AND CHAIN OF CUSTODY

**RESPONSE GUIDE:** Terminal Sanitation Plan: Receiving and Chain of Custody

**PURPOSE:** To provide a clear guideline for receiving and chain of custody tracking

---

**Employee:** Utilize proper PPE including gloves and mask

**Handling Protocol:**

- Gloves and masks are to be worn for all receiving/processing
- All items to be removed from cardboard/original packaging
- Sanitize all items whenever possible
- Bag/bin all items in non-porous and sanitized containers
- Label all storage containers with date received AND name of vessel (if possible)



SECTION 2: ROLES AND RESPONSIBILITIES

**CLEANING & SANITIZING PROTOCOLS**

TERMINAL MANAGEMENT

**RESPONSE GUIDE:** Roles and Responsibilities: Terminal Management

**PURPOSE:** To clarify the terminal management roles & responsibilities in the terminal sanitation plan

**Cleaning & Sanitizing Team:** Utilize proper PPE including gloves and mask

**Role:** Terminal management - ensure cleanliness and sanitation of the cruise terminal building.

**Area of responsibilities:** Sanitize multiple times per day, depending on use. Areas include: Common areas, concierge, restrooms, terminal management breakroom and office, lobby ID check and security queuing lines.

**Sanitation Protocol:**

- Follow relevant provisions from Section 1: Terminal Sanitation Plan of Cleaning and Sanitizing Protocols
- Sanitize terminal management’s office, breakroom, and concierge
- Sanitize all touch points in the common areas, including,
  - All public restrooms accessible by passengers
  - All elevator doors and buttons
  - All escalator handrails
  - All stairwell handrails
- Sanitize stanchions in ID check and security screening queuing lines
- Sanitize all drinking fountain and bottle filler stations



SECTION 2: ROLES AND RESPONSIBILITIES

**CLEANING & SANITIZING PROTOCOLS**

CRUISE LINES

**RESPONSE GUIDE:** Roles and Responsibilities: Cruise Lines

**PURPOSE:** To clarify the cruise line roles & responsibilities in the terminal sanitation plan

---

**Cruise Line Sanitation Team:** Utilize proper PPE including gloves and mask

**Role:** Ensure sanitation of passenger areas.

**Area of responsibilities:** Sanitize multiple times per day, depending on use. Areas include passenger check-in queues, check-in counters and passenger seating areas.

**Sanitation Protocol:**

- Follow relevant provisions from Section 1: Terminal Sanitation Plan of Cleaning and Sanitizing Protocols
- Sanitize all touch points in the passenger check-in queuing lines and seating areas
- Sanitation of Passenger Check-in Queue:
  - Sanitize stanchion tops and belts
  - Sanitize passenger side of check-in counters
- Sanitation of the Passenger Seating Area:
  - Sanitize chairs



SECTION 2: ROLES AND RESPONSIBILITIES

**CLEANING & SANITIZING PROTOCOLS**

SHORESIDE SERVICES

**RESPONSE GUIDE:** Roles and Responsibilities: Shoreside Services

**PURPOSE:** To clarify the shoreside service roles & responsibilities in the terminal sanitation plan

---

**Employee:** Utilize proper PPE including gloves and mask

**Area of responsibilities:** Sanitize multiple times per day, depending on use. Areas include shoreside services breakroom, office, and check-in counters.

**Sanitation Protocol:**

- Follow relevant provisions from Section 1: Terminal Sanitation Plan of Cleaning and Sanitizing Protocols
- Sanitize check-in counter after each use
- Sanitize assigned breakroom
- Sanitize offices



SECTION 2: ROLES AND RESPONSIBILITIES

**CLEANING & SANITIZING PROTOCOLS**

SECURITY SERVICES

**RESPONSE GUIDE:** Roles and Responsibilities: Security Services

**PURPOSE:** To clarify the security service roles & responsibilities in the terminal sanitation plan

---

**Employee:** Utilize proper PPE including gloves and mask

**Area of responsibilities:** Sanitize multiple times per day, depending on use. Areas include security services breakroom, office, and security screening stations.

**Sanitation Protocol:**

- Follow relevant provisions from Section 1: Terminal Sanitation Plan of Cleaning and Sanitizing Protocols
- Sanitize all touch points at the security screening workstations
- Sanitize all security divest bins
- Sanitize keyboards and chairs after each use
- Sanitize all security tables and counters when feasible
- Sanitize assigned breakroom
- Sanitize office space





SECTION 2: ROLES AND RESPONSIBILITIES

**CLEANING & SANITIZING PROTOCOLS**

GROUND TRANSPORTATION SERVICES

**RESPONSE GUIDE:** Roles and Responsibilities: Ground Transportation Services

**PURPOSE:** To clarify the ground transportation service roles & responsibilities in the terminal sanitation plan

---

**Employee:** Utilize proper PPE including gloves and mask

**Area of responsibilities:** Sanitize multiple times per day, depending on use. Areas include office, motor coaches, and assigned breakroom

**Sanitation Protocol:**

- Follow relevant provisions from Section 1: Terminal Sanitation Plan of Cleaning and Sanitizing Protocols
- Clean and sanitize all touch points and seats in motor coaches
- Clean and sanitize assigned breakroom
- Clean and sanitize assigned office



SECTION 2: ROLES AND RESPONSIBILITIES  
**CLEANING & SANITIZING PROTOCOLS**  
STEVEDORE & LONGSHORE LABOR

**RESPONSE GUIDE:** Roles and Responsibilities: Stevedore and Longshore Labor

**PURPOSE:** To clarify the stevedore and longshore labor roles & responsibilities in the terminal sanitation plan

---

**Employee:** Utilize proper PPE including gloves and mask

**Area of responsibilities:** Sanitize multiple times per day, depending on use. Areas include longshore breakroom, offices, and the terminal parking shuttle buses.

**Sanitation Protocol:**

- Follow relevant provisions from Section 1: Terminal Sanitation Plan of Cleaning and Sanitizing Protocols
- Clean and sanitize assigned offices
- Clean and sanitize all touch points and seats of the terminal parking shuttle buses
- Clean and sanitize longshore breakroom
- Clean and sanitize longshore restrooms



SECTION 3: MAINTENANCE

**CLEANING & SANITIZING PROTOCOLS**

VENTILATION SYSTEMS

RESPONSE GUIDE: Maintenance: HVAC Ventilation Systems

PURPOSE: To increase ventilation rates or the percentage of outdoor air in HVAC ventilation system.

- 
1. The ventilation system can be modified to increase ventilation rates or the percentage of outdoor air that circulates into the system.
  2. Ensure ventilation systems operate properly and provide acceptable indoor air quality.
  3. Disable demand-controlled ventilation (DCV).
  4. Further open minimum outdoor air dampers (as high as 100%) to reduce or eliminate recirculation.
  5. **MERV Rating 13+ Air filters**  
To ensure the most effective high-efficiency air filter against the Covid-19 virus, air filters were replaced with MERV rating of 13 or higher. MERV measures how effective the air filter is and range from 1-16. The higher the MERV rating on a filter, the fewer dust particles and other contaminants can pass through it. According to ASHRAE tests, there are 4 general tiers or categories of MERV ratings:
    - **MERV 1–4 (decent):** A filter in this MERV range is your typical disposable fiberglass filter. These can pick up particles that are 10 microns or larger, which include pollen, regular standing dust.
    - **MERV 5–8 (good):** These filters are better at catching small particles (3–10 microns) like mold spores, hair spray, dust mites and animal dander.
    - **MERV 9–12 (better):** The best option for commercial and residential use. These air filters can remove pollutants as small as 1–3 microns, which includes particles like humidifier dust, auto emissions and legionella.
    - **MERV 13–16 (best):** These filters are usually only found in hospitals because they can capture particles as small as 1–0.03 microns in size. Particles this small include bacteria, tobacco smoke and even the contaminants in sneezes.



SECTION 3: MAINTENANCE

**CLEANING & SANITIZING PROTOCOLS**

MAINTENANCE REQUESTS

**RESPONSE GUIDE:** Maintenance: Maintenance Requests

**PURPOSE:** To effectively respond to or execute maintenance requests.

---

**Communication:**

- **Note:** When a maintenance issue or concern is being reported, be sure to take detailed notes of maintenance request.
- **Investigate:** Response to the maintenance request. It is possible that maintenance request can be handled internally. For example, battery replacement can be done in-house.

**Take Action:**

1. **Report:** If the request cannot be addressed internally, then it must be reported to the terminal manager who will contact the Port of Seattle for proper maintenance or repairs.
2. **Follow-up:** It is important to follow-up on the maintenance request to ensure that the request is being handled
3. **Communicate:** Be sure to let the person or entity initiating the maintenance request know that item has been completed.

**Employee Response Requirement:** Utilize proper PPE up to and including gloves and masks when handling maintenance requests.



SECTION 4: CHECKLISTS

## CLEANING & SANITIZING PROTOCOLS

CLEANING & SANITATION CHECKLIST

**RESPONSE GUIDE:** Cleaning and sanitizing checklist

**PURPOSE:** Implement regular daily checklists to record cleaning protocols.

---

The following checklist is to be posted in a prominent location and completed on each cruise day. Keep copies of each for two months.



**TERMINAL SANITATION CHECKLIST**

**VESSEL:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**Sanitation Schedule** ☐6am ☐7am ☐8am ☐9am ☐10am ☐11am ☐12pm  
**Sanitation Schedule** ☐2pm ☐3pm ☐4pm ☐5pm ☐6pm ☐8pm ☐9pm

**BEGINNING OF SHIFT**

- ☐ Wear mask and gloves at all times
- ☐ Maintain 6' physical distancing from fellow employees and passengers

**DURING SHIFT**

- ☐ Sanitize all counters, carts, and trays
- ☐ Check and refill all sanitation stations
- ☐ Clean and sanitize entrance and exit areas hourly
- ☐ Sanitize all high touch areas (handles, light switches, common use areas)
- ☐ Sanitize all tables and chairs tables

**END OF SHIFT**

- ☐ If required, use sanitation equipment to sanitize all chairs and tables
- ☐ If required, use sanitation equipment to sanitize all service counters
- ☐ If required, use sanitation equipment to sanitize restrooms and breakrooms
- ☐ If required, use sanitation equipment to sanitize elevators
- ☐ Sanitize all high use equipment

**Name (Print):** \_\_\_\_\_

**Signature:** \_\_\_\_\_



(Restroom checklist)



SECTION 5: RESOURCES  
**CLEANING & SANITIZING PROTOCOLS**  
VENDOR RESOURCES

**PURPOSE**

To provide vendor contact information for cleaning and disinfecting supplies and Personal Protective Equipment (PPE).

**Vendors:**

1. COSTCO – all cleaning and disinfecting supplies and PPE
2. STAPLES – all cleaning and disinfecting supplies and PPE
3. AMAZON – all cleaning and disinfecting supplies and PPE
4. Port of Seattle – Countertop shields and safety barriers

**PPE Supplies:**

1. Gloves – Costco & Staples
2. Facemasks – Costco & Staples
3. Eye Protection/Face Shields – Staples & Amazon

**Signage & Physical Distancing:**

1. Generic COVID-19 related signage – Port of Seattle
2. Safety barriers – Port of Seattle

**Safety Shields:**

1. General Safety Shields – Port of Seattle
2. Countertop Shields – Port of Seattle
3. Face Shields – Staples & Amazon

**Sanitizing Solutions:**

1. All Purpose Cleaner – Costco & Staples
2. Disinfectant Cleaner – Costco & Staples

**Sanitizing Equipment:**

1. Sanitation equipment – Waxie





SIXTH AMENDMENT TO LEASE  
BETWEEN  
PORT OF SEATTLE  
AND  
CRUISE TERMINALS OF AMERICA, LLC

THIS SIXTH AMENDMENT TO CRUISE FACILITY LEASE AGREEMENT is made as of March 8th, 2022, by and between the PORT OF SEATTLE, a Washington municipal corporation ("the Port") and CRUISE TERMINALS OF AMERICA, LLC, a Washington limited liability company ("Tenant").

WHEREAS, the parties entered into a Cruise Facility Lease Agreement dated December 21, 2005, which was subsequently amended by the First Amendment dated May 17, 2006, the Second Amendment dated September 24, 2012, the Third Amendment entitled Amended and Restated Cruise Facility Lease Agreement dated August 12, 2015, the Fourth Amendment dated October 22, 2019, and the Fifth Amendment dated November 2, 2021 (together the "Agreement"); and

WHEREAS, the parties now wish to further revise the Agreement as previously amended, by extending the term and making further changes as described below.

NOW THEREFORE, in consideration of their mutual promises, the parties hereby agree as follows:


1. Section 3.1 is deleted in its entirety and replaced with the following:

3.1 Term. The Term of this Amended and Restated Agreement shall continue from the Restatement Date until ten (10) days after the last scheduled ship in 2023, or November 30, 2023, whichever is earlier. Subject to the Port's sole consent and if Tenant is in compliance with the terms and conditions of this Lease, Tenant has the option to request up to two (2) extensions of the Lease term for two (2) additional one (1) year option terms. In the event Tenant wishes to extend the Lease term, Tenant shall provide the Port with written notice of Tenant's request to exercise such option no more than one year and no less than two hundred forty (240) days prior to the expiration of the Agreement term. No later than sixty (60) days after receipt of Tenant's notice, the Port, in its sole discretion, may provide Tenant with written confirmation of the Port's consent to the extension. The Port's failure to provide Tenant with such written notice within the stated sixty (60) day period shall constitute the Port's refusal to consent to the extension.

2. Except as expressly amended herein, all provisions of the Agreement (as previously amended) shall remain in full force and effect.

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

LANDLORD  
PORT OF SEATTLE  
a municipal corporation

By   
Its EXECUTIVE DIRECTOR

TENANT  
CRUISE TERMINALS OF AMERICA,  
LLC

By   
Its Member

Notary to Sixth Amendment to Lease  
with Cruise Terminals of America  
at Terminal 91.

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

On this 8<sup>th</sup> day of MARCH, 2022, before me personally appeared STEPHEN P. METRICK, to me known to be the EXECUTIVE DIRECTOR of the PORT OF SEATTLE, the municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

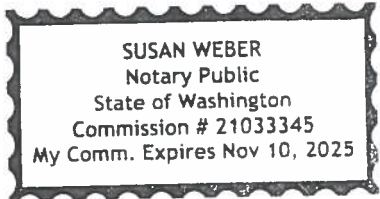


[Signature]  
(Signature)  
HUGH HASTINGS  
(Print Name)  
Notary Public, in and for the State of Washington,  
residing at KING  
My Commission expires: 04-30-2024

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

On this 7 day of MARCH, 2022, before me personally appeared John Oppenheimer, to me known to be the member of the Cruise Terminals of America the individual/entity that executed the within and foregoing instrument as Tenant, and acknowledged said instrument to be the free and voluntary act and deed of said individual/entity, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



[Signature]  
(Signature)  
susan Weber  
(Print Name)  
Notary Public, in and for the State of Washington,  
residing at King County  
My Commission expires: NOV. 10, 2025



- LEASE HOLD AREA
- PREFERENTIAL USE AREA
- PARKING AREA

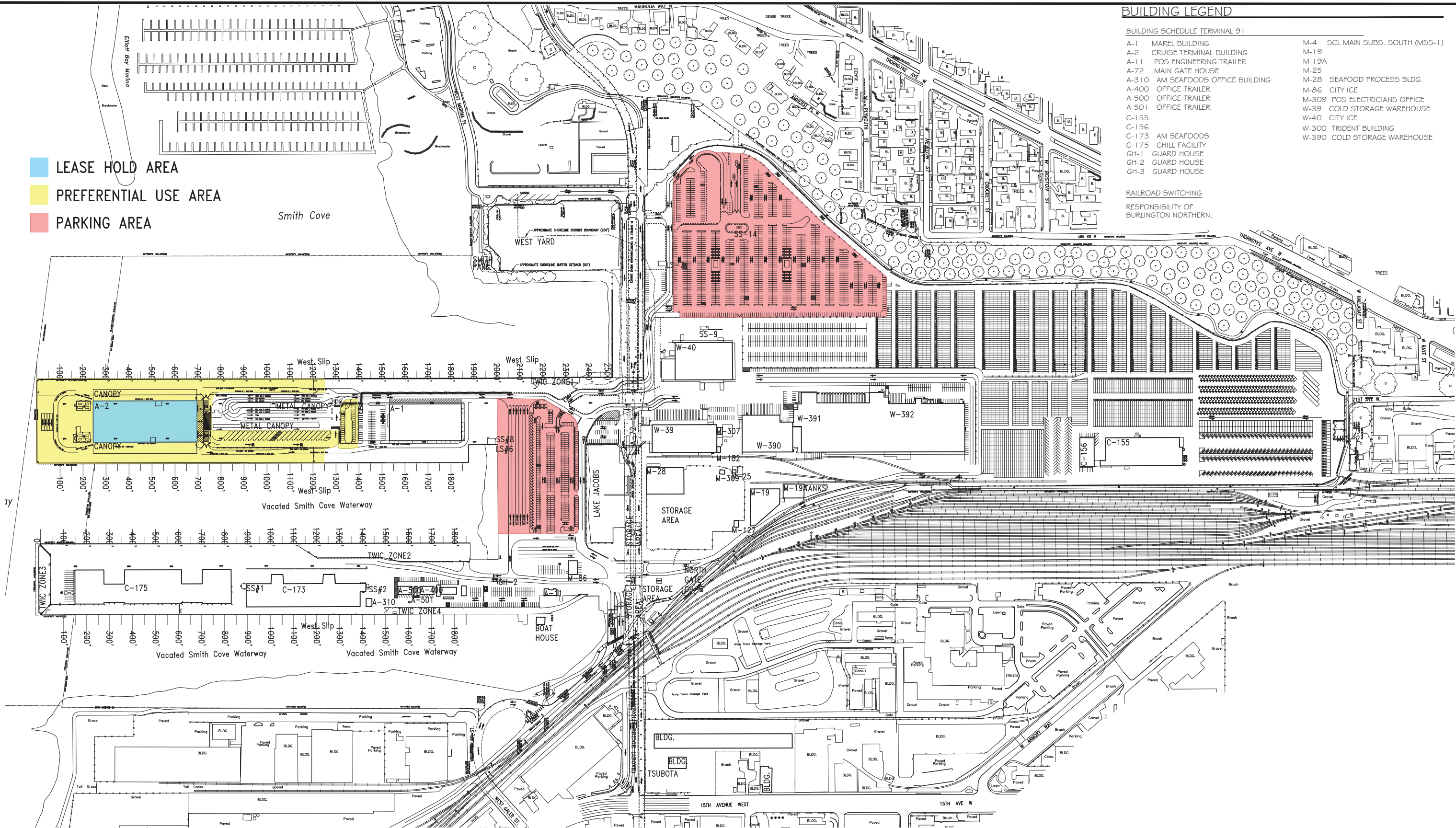
BUILDING LEGEND

BUILDING SCHEDULE TERMINAL 91

- A-1 MAREL BUILDING  
A-2 CRUISE TERMINAL BUILDING  
A-11 POS ENGINEERING TRAILER  
A-72 MAIN GATE HOUSE  
A-310 AM SEAFOODS OFFICE BUILDING  
A-400 OFFICE TRAILER  
A-500 OFFICE TRAILER  
A-501 OFFICE TRAILER  
C-155  
C-156  
C-173 AM SEAFOODS  
C-175 CHILL FACILITY  
GH-1 GUARD HOUSE  
GH-2 GUARD HOUSE  
GH-3 GUARD HOUSE
- M-4 SCL MAIN SUBS. SOUTH (MSS-1)  
M-19  
M-19A  
M-25  
M-28 SEAFOOD PROCESS BLDG.  
M-86 CITY ICE  
M-309 POS ELECTRICIANS OFFICE  
W-39 COLD STORAGE WAREHOUSE  
W-40 CITY ICE  
W-300 TRIDENT BUILDING  
W-390 COLD STORAGE WAREHOUSE

RAILROAD SWITCHING

RESPONSIBILITY OF  
BURLINGTON NORTHERN.



SUBCLASS PLAN

TERMINAL 91  
SCALE: 1:200

THIS AS-BUILT DRAWING WAS CONSOLIDATED FROM MULTIPLE SOURCES.  
TO BE USED FOR REFERENCE ONLY. SITE VERIFICATION IS ADVISED.



PROJECT ENGR./ARCH:

DESIGNER:

DRAWN BY:

SCALE:

DATE:

CHECKED BY:

CHECKED/APPROVED BY:

REVISIONS

NO.	DATE	BY	DESCRIPTION	APP'D	NO.	DATE	BY	DESCRIPTION	APP'D

PROJECT MANAGER:

PROJECT ENGINEER:

DESIGN ENGINEER:

DRAFTER:

SCALE:

DATE:

CHECKED/APPROVED BY:



MARINE FACILITIES  
TERMINAL 91 CTA LEASE AREA

PROJECT:

SHEET TITLE: SITE PLAN  
TERMINAL 90-91

WORK PROJECT NO.

CONSULTANT'S NO.

PORT OF SEATTLE NO.

C1.0 91-MM1603